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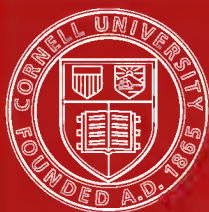
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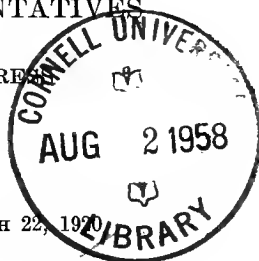
HEARINGS

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

HOUSE OF REPRESENTATIVES

U.S. SIXTY-SIXTH CONGRESS
SECOND SESSION



FROM JANUARY 21 TO MARCH 22, 1920

COMMITTEE ON INDIAN AFFAIRS.

HOUSE OF REPRESENTATIVES.

HOMER P. SNYDER, New York, *Chairman*.

PHILIP P. CAMPBELL, Kansas.

ROYAL C. JOHNSON, South Dakota.

JOHN A. ELSTON, California.

FREDERICK W. DALLINGER, Massachusetts.

BENIGNO C. HERNANDEZ, New Mexico.

MARION E. RHODES, Missouri.

JAMES H. SINCLAIR, North Dakota.

CLIFFORD E. RANDALL, Wisconsin.

ALBERT W. JEFFERIS, Nebraska.

R. CLINT COLE, Ohio.

JOHN REBER, Pennsylvania.

M. CLYDE KELLY, Pennsylvania.

CHARLES D. CARTER, Oklahoma.

CARL HAYDEN, Arizona.

WILLIAM J. SEARS, Florida.

JOHN N. TILLMAN, Arkansas.

HARRY L. GANDY, South Dakota.

WILLIAM W. HASTINGS, Oklahoma.

ZEBULON B. WEAVER, North Carolina.

RICHARD F. MCKINIRY, New York.



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CHIPPEWAS OF MINNESOTA.

SUBCOMMITTEE OF THE COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Wednesday, January 21, 1920.

The subcommittee met at 10.30 o'clock a. m., Hon. Homer P. Snyder (chairman) presiding.

The CHAIRMAN. A majority of the subcommittee being present, we are called together for the purpose of discussing H. R. 9924, known as a bill to aid in the winding up of the affairs of the Chippewa Indians of Minnesota. The bill was introduced by Mr. Knutson, also H. R. 6461 by Mr. Ellsworth. Mr. Ellsworth is here and will open the hearing. At this time I would like to ask Mr. Ellsworth if he has any idea of the amount of time he will consume with his remarks in opening the hearing.

STATEMENT OF HON. FRANKLIN F. ELLSWORTH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA.

Mr. ELLSWORTH. In reply to that I will say to the committee and all here interested in these affairs that we should have a full hearing upon this matter. A matter as technical as this would require a good deal of time, but I shall not attempt to play the rôle of one entirely familiar with the technical matters, that, of course, would be required to properly explain this bill. My own statement will be very short, feeling that the time should be put in with the testimony of the general counsel and Mr. Meritt. I shall not attempt to go into technical matters.

The CHAIRMAN. Will you give us a general idea of why this legislation should now be taken up?

Mr. ELLSWORTH. I will attempt to do so. The present bill was introduced by Mr. Knutson, but there is another bill, H. R. 6461, which I have introduced.

Mr. HAYDEN. Is it your intention to press your bill?

Mr. ELLSWORTH. Yes. I suppose some description should be made of the physical conditions as they exist at the present time in northern Minnesota. In 1889 there was passed the act of January 14, 31 years ago this month, and it was expected at that time by those interested in the affairs of the Chippewa Indians that the passage of that act would go a long ways toward finally winding up all the affairs of the tribe; that is, that every member of the tribe in Minnesota would be allotted lands and that the land and timber included on lands, including swamp lands, agricultural lands, and timber lands, would finally all be disposed of and put in the funds of the Treasury and paid out to the members of the tribe. That was 31 years ago. Present conditions, as near as I can learn in the short

time, are these: That out of some 11,000 or 12,000 Chippewa Indians in Minnesota, approximately that, probably 25 or 30 per cent of these have severed their relations, not with the tribe, but have gone into other States and quit the business of being Indians so that perhaps two-thirds are now residents of Minnesota, yet practically 11,000 or 12,000 Chippewa Indians have been provided for each year in annual appropriations out of the principal fund now held in the Treasury for the benefit and in trust for the Indians, probably 90 per cent of those Indians are as competent as are the white people of Minnesota. Following the agreement of 1889, which was ratified by the several bands, and therefore by all the Chippewas, and became in fact an agreement. By that agreement it was provided that the lands should be classified exclusively as timber and agricultural lands and members of the tribe given allotments out of the land.

The Chippewa Indians ceded all they then claimed in Minnesota to the United States, a sufficient amount being held back to make allotments on the White Earth and Red Lake Reservations on the lands ceded those who so desire could take their allotments on land where they were then living if they wished, but all the lands unallotted to the individual members of the tribe were to be disposed of, the amount received to be paid into the Treasury in trust for the Indians and all other amounts received for lands sold under the homestead or other acts to be put into the Treasury in trust for the Indians. The present situation is that instead of being administered for all alike, the Red Lake band of Chippewas, of which there are about 1,500, have received certain special benefits out of that part which was to be held in reserve in the Red Lake Reservation over and above the benefits received by all other members of the tribe from the general fund.

The CHAIRMAN. Was that by reason of allotments or sales?

Mr. ELLSWORTH. By reason of sales. The greater part of the lands ceded to the Government was sold elsewhere than on Red Lake and was put into the Treasury and went to the benefit of all. Now, this is not solely a contest between the Red Lake and the Chippewa Indians at all. The Red Lake Indians are perhaps more in need of legislation of this kind than the others because they are less advanced, because they have been kept segregated; kept and held as Indians, while the Indians on the White Earth Reservation are perhaps no different from white people in that section of the State. In fact, their people intermingle with the whites and you can not tell when you get on the White Earth Reservation or off it, so alike are they except in so far as Indian affairs are concerned. But on the Red Lake Reservation they still live as reservation Indians, and I believe instead of making progress, from what I have been told, instead of making progress they are in a state of retrogression. There are about 1,500 of them, and because of the effect of the control of the Indian Bureau—I am not criticizing the Indian Bureau at all, because I think they are honest in their purpose—something should be done for these Red Lake Indians.

The CHAIRMAN. Now, Mr. Ellsworth, I want to get this into the record through you. What part of the Chippewa Indians does this delegation here this morning represent? There are apparently two sides of this question, and have always been since I have known anything about Indian affairs. Now, what part of the Chippewa

Indians does this delegation here this morning represent? Tell us about that, will you?

Mr. ELLSWORTH. There has been some contention in years past about the authority of certain members to represent the tribe. There was a time at which, as I understand it, the bureau disputed the authority of those who now constitute the general counsel of the Chippewa Indians to represent the majority of those who constituted the council or their predecessors. It is my understanding that last summer they were specifically recognized by letter from Hon. Cato Sells, Commissioner of Indian Affairs, as having authority to represent the Chippewa Indians in tribal affairs. Now, just as prior to an election anywhere else in our country, there were certain factions against those who are elected, as it should be if it is a true and free democracy.

The CHAIRMAN. You stated that the Chippewa Indians approximate about 12,000. Now, what part of that 12,000 does this delegation here this morning represent?

Mr. ELLSWORTH. Do you mean by that how many participated in the election?

The CHAIRMAN. Not only those who participated, but those who participated and represent somebody.

Mr. ELLSWORTH. I should say they represent the whole Chippewa tribe. These men represent all the Chippewas.

The CHAIRMAN. The reason I asked this question is that there is another party to this question who have asked for a hearing.

Mr. ELLSWORTH. There is absolutely no objection to any one who takes an interest in Indian affairs in Minnesota having a full hearing.

The CHAIRMAN. Then this committee, as I understand it, this delegation appearing here this morning represents the full band, and is appearing here represented by counsel and this committee is supposed to listen to them with the thought and belief that they are the legally elected representatives of the Chippewas? You stated a few moments ago that there was no contest between the Red Lake Band and other bands of Chippewa Indians. Is there any contest between any of the bands, or is there any contest at all on this legislation?

Mr. ELLSWORTH. I should not have stated that there is no contest. What I intended to say was when I spoke of this matter of contest between the bands, that that was primarily the purpose of this legislation.

Mr. ELSTON. Has the Minnesota delegation in Congress agreed upon this legislation?

Mr. ELLSWORTH. I can not say.

The CHAIRMAN. Are all these gentlemen here this morning on one side of the case or on two sides?

Mr. ELLSWORTH. I can not tell you that until they testify; I do not know.

The CHAIRMAN. We are here this morning for the purpose of listening to the duly elected representatives of the Chippewa Indians. The other side, if there is another side, it will be heard later.

Mr. ELSTON. How much is involved in this claim, Mr. Ellsworth?

Mr. ELLSWORTH. There are many, many different things. If you will allow me to proceed, this was not a matter of contest between the two bands, but a matter of settling their estate and referring to

the Court of Claims for determination their claims against the Government. The general purpose of this legislation is this: To take all the tribal lands and all the lands ceded remaining unsold and dispose of them; to settle all contested claims between the different bands of Chippewas; all claims between the United States Government and the Chippewas; and all claims between the United States and the State of Minnesota and to wind up as nearly as possible all the affairs of the Chippewa Indians and put them out in the world on their own responsibility, giving them what money is coming to them and having them look out for themselves in the future. It contemplated the naming of a commission; one to be named by the President of the United States; one by the Secretary of the Interior, and one by the general counsel of the Chippewa Indians. That commission which is provided for to be appointed in this bill is first to make rolls of the Chippewa Indians and add to the rolls all those who ought to have their names on the rolls and entitled to an allotment of land or to participate in the division of the trust funds held by the United States for the Indians, which contemplates children born since, and whose names are not on the rolls. They would first regularly do all this outside the Red Lake Band, and as there has never been an authentic roll of the Red Lake Band at all, would make a roll of the Red Lake Band and show who are entitled to receive the benefits when the allotments are made.

Mr. CARTER. There has never been any roll of the Red Lake Chippewas?

Mr. ELLSWORTH. There has been but it is not complete.

Mr. CARTER. They are operating at present under a treaty which expires in 50 years?

Mr. ELLSWORTH. Yes.

Mr. CARTER. Can you give a citation of that agreement?

Mr. ELLSWORTH. January 14, 1889, Nelson act. Then this commission is to make a roll of the incompetents. A great objection to winding up Indian affairs has always been this, and there is good reason to believe it might occur; an incompetent Indian parts with his land for little or nothing. It gets into the hands of white men and opens the way for fraud. That is the great objection, if there is any objection, and so in this bill it is attempted to provide against fraud and require that this commission of three make a roll of the incompetent Indians, children, etc., and to make allotments to the rest of the Indians and then to the incompetent Indians. After doing that they are supposed to prepare a list of the incompetent Indians to provide against fraud and file the list with the Bureau of Indian Affairs and a certified copy of that list in every recording office in each county where allotments are made so that everyone who deals in the Indian land can obtain a record in the county in which the said list is filed and so learn whether or not the Indian is an incompetent and so be put upon his guard. It provides a precaution where they have been adjudged competent afterwards and seek to convey, and in order to convey they must have an acknowledgement before a notary, or a court of record, so that someone having authority would be on record as to the validity and bona fides of the proposed transaction. Then as to schools this bill provides—now the present situation is that under the agreement of 1889 most of the timber lands sold and most of the money at interest yields about \$300,000,

or 5 per cent per annum, and of that one-fourth is to be devoted entirely to school purposes.

It is not the desire in this bill that while providing—and I might speak of the other first, as it provides \$300 to be set aside and paid to them individually at this time or within a short time after this bill becomes a law—it is not the desire that the schools shall in any way suffer. It is believed that if you take away the Indian schools, the Indian in one year or two years would be assimilated in the public schools of America, no doubt, and there is no objection anywhere to their going into the public schools and it would probably make better citizens of them. It is not the desire of this bill to take away from the bureau their right to the \$75,000, which is the amount provided under the act of 1889 for the benefit of the schools. It also provides that those amounts which may be taken for schools shall be one-fourth of all of the interest on funds left in the Treasury and in addition to that amount a fair share of the principal if not sufficient to make up the \$75,000. Then this bill in addition proposes that the school buildings and school property be transferred to the State of Minnesota, the State of Minnesota to take care of the school business. Now, up in that country you will find in the reservations large bodies of reservation lands which should be disposed of, and this bill provides for the selling of all timber and agricultural lands and the payment of \$300 per capita, to be paid to the individual Indians. They propose that town sites be platted; not to exceed 320 or 640 acres, and those who now have improvements on what is to be platted have six months preference to buy the lot; thus providing for the maintaining of villages now established in that country. This bill carries an appropriation of \$15,000 for the general council for the work they do. It is worth that, and if it was provided that they receive \$15,000 each it would not be sufficient to compensate them for the work done in supervising all this work in behalf of their tribe.

The CHAIRMAN. That is outside this commission?

Mr. ELLSWORTH. Yes; outside the commission itself. Now, the courts must determine the ownership of the swamp lands. The surveyor general, in making the surveys, mapped the land as agricultural, swamp, and timber lands, and included probably 1,400,000 acres as swamp lands, much of which was agricultural and timber. Under the swamp-land donation act of 1860, upon application the State of Minnesota procured 700,000 acres of which I have forgotten the features, but Mr. Ballinger will explain that point. It is proposed here to authorize the Attorney General of the United States to institute suit against the State of Minnesota to recover the swamp lands patented by the United States to that State, or the value of the lands sold. Then it is proposed to refer to the Court of Claims and give jurisdiction to the Court of Claims to determine and make an accounting between the Government and the Chippewa Indians of the amount taken out of the Chippewa funds for the alleged purpose of support and civilization; to determine what such moneys have been devoted to support and civilization, and make an accounting between the Government and the tribe of the amounts devoted to other purposes which, under the act, were not actually for support or civilization. It is then proposed also to refer to the Court of Claims all other claims. It then provides for the determination of the ownership of the funds received from the sale of property on the Red

Lake Reservation, and holds these funds apart from the general funds that go to all others, including the Red Lake, and for a general accounting between all the Chippewas and especially between the Red Lake Band and the other Chippewas. It then provides general jurisdiction and proposes to refer to the Court of Claims all claims arising out of all transactions had between the Government and the Indians.

The CHAIRMAN. A blanket authority to sue for anything?

Mr. ELLSWORTH. I would not say that, because I do not think that anything of that kind will be needed. It is authority to get a general accounting for the tribe of all things concerning their lands and tribal funds, especially between the Government and the tribe, the State and the tribe, and the State and the Government.

The CHAIRMAN. Would it be possible to define in the bill these items for each individual claim to be put in?

Mr. ELLSWORTH. I think the authority given covers that now.

Mr. ELSTON. Was this bill drawn up under the direction of the Indian Bureau?

Mr. ELLSWORTH. No. I am glad you asked that question. It is perfectly apparent that there is not a single man in Minnesota to-day who thoroughly understands the Chippewa Indian affairs. It is perfectly apparent that outside the Indian Bureau, and aside from Mr. Ballinger down here in Washington, no one can give all the technicalities which have to do with the Chippewa Indian affairs in Minnesota and the history of the tribe and the litigation going on before 1889 and all the regulations and rulings of the Indian Bureau. I would not attempt for a minute to say I could thoroughly explain all these things.

The CHAIRMAN. I wish you would read section 9.

Mr. ELLSWORTH. Section 9 reads as follows:

That the Attorney General of the United States is hereby authorized and directed to institute a suit in the Supreme Court of the United States against the State of Minnesota for the value of all lands and timber thereon ceded to the United States in trust under the provisions of the act of January 14, 1889 (25 Stat. L., p. 642), and which were subsequently patented to the State of Minnesota upon the erroneous assumption by the administrative officers of the United States that the State was entitled thereto under the provisions of the laws of the United States relating to the donation of swamp and overflowed lands to certain States, and the moneys recovered from the State of Minnesota shall be deposited in the principal fund of the Chippewa Indians of Minnesota standing to their credit in the Treasury of the United States.

The rest simply provides how suit shall be instituted, the scope of it is very narrow, simply provides for the institution of any suit by the Chippewa Indians against the Government.

The CHAIRMAN. It must be within that agreement?

Mr. ELLSWORTH. Yes, sir; it must be within the agreement. I have a petition here which I would like to submit at this hearing. This petition is signed by Indian boys who were in France helping fight the battles of this country, and I must confess that while introducing a petition of this kind is entirely aside from argument or debate on the merits of the proposition, that this feature does appeal to me. That if from the body politic these boys or men of the Chippewa Indians of Minnesota took their places with the rank and file of the citizens of this country to help fight its battles, if they want to receive the benefits of what we say is the great democracy, it seems to me that here and now in this committee of the House of

Representatives is as good a place as any I know of to demonstrate it and give to these boys, their fathers and mothers, some possible chance of building up an independent citizenship.

The CHAIRMAN. Of course, the gentleman knows that during the last session a bill became a law giving all these soldiers who went to war the right to become citizens.

Mr. ELLSWORTH. Yes; and it is very commendable. But for the future I suggest we give them the property that belongs to them.

The CHAIRMAN. Does not that follow?

Mr. ELLSWORTH. I think it does; but we had to come to Congress to get it.

The CHAIRMAN. I would like to say here for the record, and also for those present, that a couple of representative Indians have called on me and stated they had no knowledge of the fact that any such law existed, and were quite surprised to find out that there was such a law; and I would like just for a moment to ask Mr. Meritt if there is anything done by the bureau to notify these Indians they were eligible under that bill?

Mr. MERITT. Yes, sir. We wrote a letter to each superintendent in charge of the reservations and schools in regard to the legislation passed by Congress and directed them to make it known to the Indians.

Mr. ELLSWORTH. In closing I wish to say that I think we have a very representative gathering here of Chippewas, their counsel, and Indian committee, and I think it really omens a favorable beginning of the winding up of not only the Chippewa Indian affairs, but all Indian affairs in general everywhere in the United States where it can be done without detriment to the incompetent Indian. I think it is to the interest of the Members of the House who belong to the committee to see to it that efforts are commenced to wind up the affairs of the Indian and put him on his own responsibility and make him an American citizen. I believe it was a mistake of the past in prolonging the control; it is a mistake anywhere, and that is not a criticism of individuals at all. It is a fact that individuals come to believe that the work is of itself of primary importance and the thing which it proposes to accomplish of secondary importance and lost sight of.

Mr. CARTER. Did you say that the act you referred to was that of January 14, 1889?

Mr. ELLSWORTH. Yes, sir.

Mr. CARTER. No. 25642, is that it?

Mr. ELLSWORTH. I think so.

Mr. CARTER. I notice that there is a provision for the adoption of certain provisions of the act by two-thirds of the tribe, in the first paragraph of the act; was that done?

Mr. ELLSWORTH. Yes, sir; by all.

Mr. CARTER. I notice in section 7 you have a provision of what should be done with these finds for 50 years after the date of the passing of the act, which was an agreement; are you familiar with that?

Mr. ELLSWORTH. Yes; I am familiar with that. I want to call your attention to the fact that section 10 of the Knutson bill provides that sections 3, 4, 5, 6, and 7 of this act shall be binding upon the Chippewa Indians of Minnesota when accepted by their General

Council, and without such action said sections shall not be operative. But regardless of that I would answer that question this way: If by violating one-tenth as many agreements you wind up the affairs and give to the Indians the best that we can ascertain that they are entitled to what belongs to them, if by one-tenth of the violations of the treaty we can do that, and can wind it up, I should be willing as far as I am concerned, to violate it where there is no damage and no injury.

The CHAIRMAN. You think that the revocation of the treaty now would be a violation instead of a modification?

Mr. ELLSWORTH. I would say that it would be a boon to 11,000 or 12,000 persons who belong to the Chippewa Tribe, and it would be a godsend. I do not know what you would call it legally. It might be a modification. I should say though that we ought not to stop at a proposition of legal technicality in this connection, if by doing this we can wind up these affairs and get rid of this expense of administering their affairs.

Mr. HAYDEN. In other words, you assert that the same authority that made the treaty can modify it?

Mr. ELLSWORTH. Yes, sir; it is answered by that.

Mr. HAYDEN. If two-thirds of the Chippewa Indians now living wish to alter or amend the treaty, it seems to me that they have the same rights as two-thirds of the Indians had in 1889, at the time the original treaty was made.

Mr. ELLSWORTH. In other words, if you and I make an agreement, we can mutually modify it?

Mr. CARTER. Yes, the tribe may modify the agreement also, provided two-thirds of their people agree to it.

Mr. ELLSWORTH. I say I am not urging that, as it is simply a legal technicality.

Mr. CARTER. First and last, a great many of these Chippewas appeared before the committee——

Mr. ELLSWORTH (interposing). Also those in which the allotments were given——

Mr. CARTER (interposing). I have seen very few who came before this committee who did not seem perfectly competent. It may be that they only select the competent ones to come before the committee, but many of those who have appeared before the committee certainly have been entitled to settlement and to be relieved of the supervision of the Government. We should do that, and I want to help do it; but we should do it in some such manner, if it can be done, as to prevent any claims coming back upon the Federal Government of those who may not yet have been born.

Mr. ELLSWORTH. I am sure that there is absolutely no objection to incorporating in this bill by way of an amendment any kind of a provision that will accomplish that thing, so far as it can physically be done.

The CHAIRMAN. Is it physically possible to-day to provide the same machinery for modifying this section referred to now in operation as it was when it was put into effect?

Mr. ELLSWORTH. There is this, Mr. Chairman: It is not physically possible for us to make any provision against strangers who never had a drop of Indian blood in their veins, who might drift in and say, "I was a member," and commence suit against the Government, and it will never be possible——

Mr. CARTER. That is not material. If they are not Indians they are not entitled to enrollment, and they are denied enrollment.

Mr. ELLSWORTH. That ought to be defined in the law.

Mr. CARTER. But we agreed here in the act of 1889 that we would settle this thing as of a certain date 50 years after January 14, 1889. Now, whenever you divide those funds other than in the way in which you have agreed, the Indian tribe will have a claim, a moral claim, and probably an equitable claim, those who are born hereafter, to a division in those funds.

Mr. ELLSWORTH. Those born hereafter will have a right to be put on the rolls. This commission will put them on the rolls and they will be included under its provision.

Mr. CARTER. How long is it until the expiration of this time?

The CHAIRMAN. There are 31 years which have elapsed. It will be in 1939.

Mr. ELLSWORTH. Now you are talking about those who are born hereafter.

Mr. CARTER. Born during this 50-year period.

Let me ask you this question, Mr. Ellsworth: What are you going to do about those who are living now and die before that time; are you going to have some kind of an agreement or modification with reference to them?

Mr. ELLSWORTH. This bill, I think, will certainly protect them and we ought to provide legislation to protect them.

The CHAIRMAN. Do you think we ought to go too far in looking after the unborn?

Mr. CARTER. I think that it is necessary to look after that question. It is very necessary to do that, because we have seen similar cases result in claims against the Government.

Mr. ELLSWORTH. I would make this apply.

Mr. SINCLAIR. Are not the conditions, Mr. Carter, surrounding this case just the same as they are in a will case? Suppose that you have a trust created for those, could that not be done in that way?

Mr. CARTER. It could be done for those born up to that time.

The CHAIRMAN. It is a very simple matter to readjust this thing. We can provide to take care of just such cases as that which might possibly come up.

Mr. ELLSWORTH. I do not think that there would be any objection or any difficulty on the part of those who would afterwards come into being; I do not know as to that.

Mr. HASTINGS. I am not a member of the subcommittee—

The CHAIRMAN (interposing). Mr. Hastings, you were invited to be present and to take part in the proceedings and we are glad to have you here.

Mr. HASTINGS. If you will just let me say a word—in my judgment this whole thing is under the control of the United States and of Congress. This act of 1889, or this agreement, is only an act of Congress. It has no greater effect. If Congress thinks it necessary now or at any time subsequent and wants to change the method of settlement as well as other affairs of the Chippewa Indians, it will have that legal right. It may not have a moral right to do it. If they think it is of benefit to the Chippewa Indians, they can change the method as long as they do not take anything away from them, and divide the proceeds among those Indians. It is the province of the

political department of the Government to take care of the members of these several tribes. Now, that has been settled in a number of decisions, that this comes within the jurisdiction of the political department of the Government and we can change the method of settlement as often as we want to. That has been decided in the case of Lone Wolf, found in 187 United States, and in that of the newborn Cherokee Indian baby case, where Congress changed the method of settlement with the members of the tribe. In my judgment those cases and numerous others settled the right and power of Congress to change the method of making the settlement so long as nothing is taken away from the Indians, and we may make any method of settlement that Congress might think equitable, fair, and just.

The CHAIRMAN. You have stated my understanding of the case absolutely, much better than I could.

Mr. HASTINGS. I am sure that Mr. Meritt will agree with me that the decisions are all to that effect.

Mr. CARTER. Mr. Chairman, there is not a particle of dispute about that. The decisions in the Lone Wolf, the Cherokee Baby, and other cases cited by Mr. Hastings are as familiar to many of us as the alphabet. The power of Congress to do this is undisputed. This contention might not be strictly a legal contention, but my suggestion is that these fellows are going to come back. They will come back, after you and I have passed away, perhaps, and say that the matter was not properly settled. They will want the matter sent to the Court of Claims on this proposition, and they may get equity proceedings some way or other and in that way establish a claim against the Government.

The CHAIRMAN. I will say this in reply to the gentleman, that if they do not get along any faster than they have been getting along during the last five or six years the Government will not be out a great deal.

Mr. CARTER. It is just as well for us to do this thing right as it is to leave a liability on the part of the Government for claims, and there is no reason in the world why the department should not be intrusted to treat with the commissioners duly elected to do that, and they could come back here within a year—12 months—with an agreement for a settlement. That is my suggestion.

Mr. ELLSWORTH. I shouldn't care to make any statement as to that being satisfactory until I had consulted with the general council of the tribe. I can see a great deal of force to the suggestion of Mr. Carter, of course, from a moral standpoint, but I can also see that the amount of fraud that might grow out of that sort of a thing might be far greater than the amount of injustice that might be done.

The CHAIRMAN. I think that anybody who knows about the proposition could easily see that the whole thing could quickly be defeated if it is going to be taken back and would require a two-thirds vote of the people to pass upon it. Any party not wishing it to pass could easily get one-third votes, or enough votes against it to defeat it.

Mr. ELLSWORTH. They would be voting entirely under a misapprehension of the facts.

Mr. CARTER. Are we to understand that there are any Chippewa Indians who do not want this settlement?

Mr. ELLSWORTH. Yes; I should say that there are some who do not want anything. There are some who are opposed to any kind of a winding up of the affairs of the tribe.

The CHAIRMAN. I think we want to go just as far as we can with reference to winding up the affairs of the Chippewas, and I am willing, so far as one member of the committee is concerned, to take a chance on one or two little things that might come up in the future if we can do a tremendous amount of good and take care of those who are now living. Have you anything further to say, Mr. Ellsworth?

Mr. ELLSWORTH. I haven't anything further to say, Mr. Chairman.

The CHAIRMAN. Mr. Knutson, the author of the bill, is present, and in view of the fact that it is his bill that is being given consideration, I think we would be very glad to hear from him. I would say to the gentleman that the reason he was not first heard on the bill was because he was not here when we started the hearings and the discussion of the bill this morning.

Mr. KNUTSON. I thank you, Mr. Chairman. The reason I was not here when the hearings were started this morning was that I had a committee meeting which I had to attend, together with Mr. Hayden.

I just want to make a few statements of facts. Mr. Ellsworth introduced his bill in June. Later on Mr. Rogers came to Washington, and he, in company with Mr. Ballinger, came to my office one day and stated that the Indian Bureau was opposed to certain provisions of the Ellsworth bill and asked me if I would introduce a bill meeting the objections of the Indian Bureau, and I told them I would, and on October 14, last, I introduced H. R. 9924, a bill to aid in the winding up of the affairs of the Chippewa Indians of Minnesota.

It is practically like the Ellsworth bill, with the exception of the few changes which I was told would meet the objections of the Indian Bureau.

The CHAIRMAN. Can you point out to us, Mr. Knutson, what those objections are with regard to the original proposition?

Mr. KNUTSON. I might say, Mr. Chairman, that I am not versed in these Indian affairs at all. I introduced this bill, and after I introduced it I happened to be down at the Indian Bureau——

The CHAIRMAN (interposing). I will say that what I have in mind is that I would like to know how the Chippewa Indians feel toward this proposition. They first wanted one thing and then afterwards wanted something else.

Mr. KNUTSON. I am going to confess, Mr. Chairman, from the outset, that I know very little about the Chippewa matters in Minnesota. I am willing to follow the members on the committee to a large extent, because there are members on this committee who have made a life-long study of Indian matters and in whose judgments I have great confidence.

Now, there are two bands in the sixth district. Of course, they are the ones in which I am primarily concerned. They are the Red Lake Indians and the Leach Lake Indians.

After I had introduced this bill I received a number of protests from Red Lake and also from Leach Lake and even some few from Cass Lake. I wrote to those who had written opposing this bill to the effect that the bill was introduced at the request of Mr. E. L. Rogers, of Walker. The gist of every letter that I received was that this bill would—that they had been advised by their attorney that this bill would open up the floodgates to fraud. So, I wrote these people that I had no intention and that I would not lend myself to

furthering any legislation that would throw the full-bloods or the half-breeds of the Chippewa at the mercy of the unscrupulous, and I will not. Now, whether or not this bill will open the floodgates to fraud is something for the committee to determine. I do not know. I am not well enough posted on Indian matters to know; but I do know that the competent Indians, the Indians who are competent, should be placed on their own resources.

There is no question at all about that. I think that all will agree with me in that respect. The Indian Bureau and the members of the committee are in accord with the proposition of placing the competent Indians on their own resources; but, of course, the incompetent Indians on the Red Lake Reservation and on the other reservation, especially on the Red Lake, and those that we term "Blanket" Indians. I was told last summer that some of those were still pagan. I was told that by an Indian who was accompanying me on a trip through the Red Lake Reservation during the first part of June or July; but, of course, that would not have any bearing on their competency, because we have white pagans also who have no religious belief. Now, I introduced this bill, Mr. Chairman, primarily for the purpose of affording the committee a framework upon which to build. That was my idea. Now, I hope that H. R. 9924 can be used as a framework. Of course, it is something for the committee to build on. I am extremely anxious for all competent Indians to be removed from all restrictions placed upon them, and put upon their own resources, but we must not lose sight of the fact that there are Indians on the Red Lake and the Leach Lake Reservations who are not competent and never can be competent, and turning them loose on their own resources would be a criminal act on the part of the Government and a gross violation of its obligations to these Indians, because they would be cheated out of everything that they have got on earth within 48 hours after they got patents to their land. The lumber companies would come in there and prey on them and other unscrupulous people would come in and prey on them; and that is one thing that we must guard against. Some of these Indians are absolutely incompetent and will be incompetent as long as they live. We must protect them against unscrupulous persons, because they would be the prey of such persons within a week after they received the patents to their lands——

The CHAIRMAN (interposing). Of course, the gentleman realized that he has extended the time from 48 hours to a week——

Mr. KNUTSON (continuing). But that is the one thing, Mr. Chairman, I want to impress on this committee. I am going to urge on the committee to look after the welfare of the full-bloods and half-breeds, and I know that the committee will look after their interests. That is my first concern, because they need looking after.

The CHAIRMAN. With regard to these Indians, there is one question I would like to ask, and that is, How much territory do these incompetent Indians spread over? What I had in mind was, should these Indians be segregated in order that we might take care of and look after them as a body?

Mr. KNUTSON. That, of course, is for the committee to determine.

The CHAIRMAN. Well, what I want to find out is with regard to the competent Indians and what should be done to assist them.

Mr. KNUTSON. Well, I presume a large number of these Indians—in fact, all of them—have established their homes. They may be very modest, it is true, but nevertheless they are living on certain spots and they have chosen their work. They are living together in scattered settlements. I do not know whether they could be placed together in concentration camps or not.

The CHAIRMAN. I am just asking for information.

Mr. KNUTSON. Of course, we could do that, or I presume that could be done, if it was thought that was the right way, but would that be the right way to do it?

The CHAIRMAN. I do not know; I want to find out from you men who know about these Indians.

Mr. KNUTSON. I have already stated that I am not very conversant with these Indian affairs in Minnesota.

Mr. ELLSWORTH. Mr. Knutson, I want to ask you whether or not your bill does not provide against the thing about which you have expressed fear about fraud being practiced upon the incompetent Indians, if your bill does not provide against that?

Mr. KNUTSON. I have read it over and it is my opinion that it does; but as I say, I am not competent to pass upon this bill. I am not an attorney. I have never studied law and I am not competent to pass upon the legal questions involved. I am not able to pass upon the legal phases of this bill but I understand that the opponents of this bill have engaged Mr. McDonald, who is a very able attorney; in fact, he is one of the best-known attorneys in northern Minnesota.

Mr. HAYDEN. Can Mr. McDonald be brought before this committee?

Mr. KNUTSON. I wired Mr. McDonald. I wired all of the opponents of the bill after Mr. Morrison and his party came here. I wired the others at Mr. Morrison's suggestion so that they could be here.

Mr. ELLSWORTH. If this bill does not, as a matter of fact, in the opinion of the members of the committee, provide insurance against these frauds, do you want the committee to frame such a bill as will?

Mr. KNUTSON. I am for a bill that will wind up the affairs of the Chippewa Indians so far as the competent Indians are concerned, but I think they should have this protection.

Mr. ELLSWORTH. That is what this bill provides.

Mr. KNUTSON. And I know the committee will give the incompetent Indians all the safeguards that are necessary to protect them against unscrupulous persons.

The CHAIRMAN. I might say that you might feel perfectly sure that the committee will not take action until it has been fully advised.

Mr. KNUTSON. I know that it will not.

Mr. KELLY. Are we to understand that you are the author of this bill and do not urge its passage?

Mr. KNUTSON. I made a statement that I introduced this bill for the primary purpose of affording the committee a framework upon which to build the bill that will meet the needs of these Indians. There is no question but what legislation is needed at this time which will give relief to all competent Indians, and which will benefit them.

Mr. CARTER. What I understand, Mr. Knutson, is that you are urging this legislation but you desire it to protect the Indians—

Mr. KNUTSON (interposing). No; I am—

Mr. CARTER (interposing). That you are not an expert on such and you want the chairman and the members of the Indian Affairs

Committee, all of whom have had more or less experience, to take a hand in the framing of your bill so that it will be what you want?

Mr. KNUTSON. And draft a bill that will relieve the competent Indians and yet protect the incompetent ones.

The CHAIRMAN. I think that covers the question.

Mr. MERITT. If I might be permitted to make a preliminary statement, I think that I could save a great deal of the committee's time and a great deal of discussion. If I had made a statement at the beginning here, I think it would have saved a great deal of time.

The CHAIRMAN. I think, undoubtedly, it would and therefore we would be very glad to hear you, Mr. Meritt.

STATEMENT BY MR. EDGAR B. MERITT, ASSISTANT COMMISSIONER, OFFICE OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR.

Mr. MERITT. The Indian Bureau has had under consideration this subject of the Chippewa Indians. We have examined the Ellsworth bill and we have found a number of provisions in that bill which are not satisfactory, and which were objected to by a large number of the Chippewa Indians. The Knutson bill was introduced, which eliminated a number of the provisions of the Ellsworth bill. We have gone over the Knutson bill and we find a number of provisions in the Knutson bill which are not satisfactory to the Chippewa Indians. The Knutson bill to my mind——

The CHAIRMAN (interposing). Just a moment. Now, you say that it is not satisfactory to the Chippewa Indians?

Mr. MERITT. It is not satisfactory to some of them, the Red Lake Indians, primarily, and also the full-blood Indians. The Knutson bill to my mind should be redrafted, and I have told the Chippewa Indians who are here, and Mr. Ballinger, that we would be in favor of redrafting the Knutson bill, separating the jurisdictional phases of the bill from the legislative part and getting together on the legislation that was necessary and desirable for all of the Chippewa Indians in Minnesota, rather than a part of them; and in line with that policy we have submitted to the chairman of this committee under date of January 16, 1920——

Mr. KNUTSON (interposing). Mr. Chairman, may I interrupt you for just a moment? If there is no objection, I would like to withdraw my bill and have the committee consider Mr. Ellsworth's bill, and he will look after it on the floor.

Mr. ELLSWORTH. If there is no objection, in the application for unanimous consent with regard to this bill that we are now considering, I would like you to regard it as being consideration of H. R. 6461 and that the substance of H. R. 9924 be considered as a substitute amendment to H. R. 6461; that is, that one be taken as a substitute for the other, as the identical bill.

The CHAIRMAN. Is there any objection to the request? If not, it is carried.

Mr. ELLSWORTH. I will state that there is not any conflict on the part of Mr. Knutson and myself about the bills, but it is merely a matter of urging the bill on the floor of the House and for other matters.

Mr. MERITT. Mr. Chairman, we have submitted to the committee a draft of the jurisdiction bill in one separate bill, which I think is the proper thing to do. Under the Knutson bill and the other bill the jurisdictional feature is scattered throughout the bill, and we have agreed with the Indians who are now in the city and with Mr. Ballinger on a proposed jurisdictional bill. We also had an understanding that we would go over very carefully the legislative provision of the bill and we would draft a bill that we thought would meet the situation and protect the interests of all the Indians.

Now, if we may have a little time to go over this matter, I think we can submit to the committee a bill that will be satisfactory to a very large majority of the Indians. Both bills that are now before the committee are not entirely satisfactory and they are objected to by a large number of Chippewa Indians.

Mr. HAYDEN. Why is it necessary, Mr. Meritt, to make two bills out of this proposition? There is a question, of course, when they set up claims before the Court of Claims for adoption that will be under your jurisdiction and the other question does not require any court action. Why could we not combine the two propositions in one measure, the first part being the jurisdictional part of the bill and the second part the division of the property, so that it all can be done at one time? I do not quite see the necessity of considering two bills, having one to come at one time and another to come up at another time on separate days at separate times when there is a material advantage in taking up the whole subject at one time.

Mr. MERITT. Because there would be no objection from any quarter on the jurisdictional phase of the bill. I think that it can be so worded that it will satisfy all interested parties, but there will be more or less objection to any legislation that may be introduced in regard to the division of the property of the Chippewa Indians.

The CHAIRMAN. Now, Mr. Meritt, you understand this bill, sent up to me under date of January 16, is a combination of the Knutson and the Ellsworth bills with such other modifications as have been agreed upon between you and the Indians present and those who are not present?

Mr. MERITT. So far as it relates to the jurisdictional features. We have not yet had sufficient time to pass upon the legislative features and we have an understanding with Mr. Ballinger and the Chippewa Indians that are here that we are to go over the legislative features and see if we can not get ready to submit a bill that is satisfactory to all the Chippewa Indians.

The CHAIRMAN. That seems to be the ordinary way to proceed in this proposition. It is a very big question.

Mr. MERITT. It is, indeed.

The CHAIRMAN. Undoubtedly the committee desires by all means to have presented to it a bill which has been agreed upon by at least all of the parties; that is, as far as it is possible to consolidate it into legal limits; and it seems to me that if you can agree upon that within a reasonable period, we can then proceed to consider a consolidated measure of that kind, and it seems to me we ought to suspend the hearings until that presentation is ready.

Mr. MERITT. It is my judgment that this jurisdictional bill should be separated from the legislative bill and that we have agreed on

that. This jurisdictional bill is acceptable to the department and it is acceptable to the Indians who are here. It has been gone over very carefully with Mr. Ballinger, and I think that I can say to this committee that this jurisdictional bill that has been submitted is entirely satisfactory.

Now, if we are given a little time we can go on with the legislative matters and boil them down and agree, if we can, on such legislation as may be necessary.

The CHAIRMAN. How long a time do you contemplate—how long a time do you think that you would need?

Mr. MERITT. I would say that could be done within 15 days; that we could get together within that time.

The CHAIRMAN. Then, I would like to ask Mr. Ballinger to qualify, whether or not he is the legal representative of the Indians present, who are the legally elected representatives of the Chippewa Indians.

Mr. BALLINGER. Now, Mr. Chairman, if you will permit me—

The CHAIRMAN (interposing). Now, Mr. Ballinger, I do not care to go into the matter any further except to determine whether you are the legal representative, and whether or not the Chippewa Indians you claim to represent will be bound by what you say, and whether or not you agree to what Mr. Meritt has just stated.

Mr. BALLINGER. That I am the duly authorized representative of the general council, there can be question. The president of the general council, Mr. Morrison, is here, and he can give you the resolutions that were adopted by the general council empowering me with that authority and whatever I say before the committee will be binding on the general council, and the general council represents the duly accredited representatives of the tribe.

The CHAIRMAN. And I want to ask you one further question with regard to this arrangement, and that is whether or not you, as a representative of the tribe, since you have been declared the duly authorized representative of the Chippewa Indians, whether you have been recognized as such by the Bureau of Indian Affairs.

Mr. BALLINGER. That is correct. As to a part of this bill, I want to call your attention to the fact that the Indian Bureau has suggested a division of this bill so as to place in one bill the jurisdictional matters; that is, matters to be referred to the courts, and to place in a separate distinct bill the administrative matters.

Now, the general council suggests that that would be imminently unfair to the United States to do that. Why? Because under the administrative features of this bill, if the committee thinks that proper, claims aggregating between \$5,000,000 and \$12,000,000 on the part of the tribe will be waived against the United States. Now, if the administrative features of the bill are retained with the jurisdictional end, it will reduce the claims against the United States between \$5,000,000 and \$12,000,000, that will arise, and I suggest that that is a matter that the committee ought to take into careful consideration.

What the general council is now insisting upon, and have for three years insisted upon, Mr. Chairman, is to reach the property of the tribe before it gets from under the control and legislation of the United States. This property is held in trust by the United States,

and before it passes out from under the jurisdictional control, and the claims are made against the United States——

The CHAIRMAN (interposing). Will you permit me to call your attention to the fact that the only desire that we now have is for information as to whether or not you are in accord with the Bureau of Indian Affairs with regard to the modification of this bill or its presentation in a modified form in a period which Mr. Meritt says can be done, within 15 days' time, and then we can discuss the merits of these two matters which have been determined upon by you and we may not have to listen to the arguments you are now making.

Mr. BALLINGER. Mr. Chairman, I think that is the proper method of procedure; but I want to suggest——

The CHAIRMAN (interposing). But, just conveying——

Mr. BALLINGER (interposing). Gentlemen, that is entirely impossible for us to know what the motive of the Indian Bureau is, or what they propose to do. That we can't——

The CHAIRMAN (interposing). But you state you are working now in unison with the bureau to prepare a measure which will meet with your desires——

Mr. ELLSWORTH (interposing). If you will put the question, "Try to do"——

The CHAIRMAN (interposing). Of course I intended to convey that in my question.

Mr. BALLINGER. Yes, Mr. Chairman, we will be very glad to cooperate.

The CHAIRMAN. That is what I intended to convey in my original question.

Mr. BALLINGER. We shall be very glad to do that.

The CHAIRMAN. I am not desirous of shutting off debate here, neither am I trying to get away from argument, and I know the committee feels the same way as do I about that, but if you are going to come to an agreement with regard to this you should reach your agreement and then we could discuss what you had agreed upon afterwards.

Mr. BALLINGER. Mr. Chairman, I would suggest that we reach an agreement so far as we can on the matters in the bill and leave only the few things upon which we may not be able to agree to for discussion before the committee.

Mr. MERITT. What we would like to do is to get together on this proposed legislation.

Mr. BALLINGER. Mr. Meritt, the jurisdictional bill as drawn is satisfactory to the general council. There are a few changes we would like to have in it, but, as I say, it is substantially satisfactory.

Mr. MERITT. Mr. Chairman, it is very important that we give the greatest care to any legislation relating to the Chippewa Indians, as it is well known to the older members of Congress that legislation was passed a few years ago relating to a part of the Chippewa country that resulted in a great loss and scandal. A large number of the Indians were defrauded of their property on the White Earth Reservation. The property amounted to millions of dollars, and I think the gentlemen from Minnesota will agree that statement is correct.

Mr. ELLSWORTH. But where is the conflict in regard to this matter?

MR. MERITT. The conflict here is between the Chippewa Indians themselves, and we have got to protect the interests of all of the Indians. We are in hearty accord with the desires of the committee and the desires of the Indians to wind up the affairs of the Chippewa Indians just as quickly as we possibly can.

I wanted to make a statement when we were discussing the Chippewa fund, but I did not care to interrupt at that time. Congress has heretofore authorized us to distribute one-fourth of those funds. Now, with regard to the provision of law referred to by Mr. Carter. In my judgment, Congress has absolute authority to make any distribution of those funds. The Supreme Court has held that an act of Congress carries just as much solemnity as an agreement or a treaty with the Indians, and it is absolutely in the hands of Congress as to what disposition should be made of these funds, and within the last week we have submitted to the Senate Indian Committee a provision for the authorization of a distribution of \$5,000,000 of these funds, reserving \$1,000,000 for school purposes, and it is the desire of the bureau to distribute these funds just as quickly as we can get authority. We do not want to supervise the affairs of competent Indians. Competent Indians should supervise their own affairs. There are a large number of Chippewa Indians who are known to be competent, and those Indians we think ought to have their funds and have any claims in any property that they are entitled to have, and we will be glad to go over this matter with representatives of the tribe and try to work out legislation which will be satisfactory to all of the Indians and submit it to Congress at the earliest possible date.

MR. BALLINGER. Mr. Chairman, may I make a suggestion so that we may understand when this matter is to come up and is going to be gone over, that a day certain be set so that on that day certain notice may be given to any persons who may be interested that consideration by this committee is being given to legislation that may be detrimental to the interests of the Chippewas, so that the committee may be in position to be fully advised.

THE CHAIRMAN. What would you say to a date about March 5?

MR. BALLINGER. I would prefer an earlier date, Mr. Chairman, if you could let us have it, as to-day is the 21st day of January.

THE CHAIRMAN. I appreciate, of course, what little responsibility there might devolve upon me in this matter, but I would like to be here, but I will not be here after the 5th of February until the 4th of March, and I would prefer, of course, to have the hearings after that period, unless it would be possible for them to be held before the 5th of February.

MR. BALLINGER. Mr. Chairman, in view of that statement, I ask that they go over until after the 5th of March.

THE CHAIRMAN. I shall be back in Washington on the 3d or 4th of March and we can take the matter up then.

MR. BALLINGER. Then why would it not be satisfactory—I have not examined the calendar—why would it not be satisfactory for us to say the first Monday after the 4th day of March?

THE CHAIRMAN. That would be entirely agreeable to me, if it is to the rest of the committee.

MR. BALLINGER. And, Mr. Chairman, I want to make the further request. Mr. Meritt in speaking about the Indians being dissatisfied

with this kind of legislation states that some of them are dissatisfied. The Indian Bureau must know who those Indians are and it is of course impracticable to bring a great number of Indians down here, but I would suggest that the Indian Bureau bring an intelligent representative of that faction here so that he may make known to the committee with certainty his objections to the legislation.

The CHAIRMAN. I think, of course, that should be done.

Mr. CARTER. I have tried to make what I had in my mind very clear but I still see that there are some things that I have mentioned, some contentions with regard to the power of Congress not quite clear. Of course, the power of Congress is practically settled by the decisions cited. There can be no doubt in the world as to that. The only contention is this: I am trying to make it plain that in case this matter is settled up and in case these Indians who are born after a division of these funds is made make a demand and come back to the committee in future years, probably the committee will send them to the Court of Claims and they will get a judgment against the United States for funds because this property was divided before 1939. Now, that is the only contention I make. It goes not to the power of Congress but as to the rights and claims of these Indians yet unborn. I think the bureau has made recommendations right along this line. I believe the courts may have rendered decisions in point and I am frank to confess I am not quite clear as to just what might happen in case these new fellows should come back. Now, the question I want to ask Mr. Meritt,—He says, of course, and we all subscribe to the law of the land—he says the Supreme Court has held, which it has, that Congress has a right to violate these treaties or to violate any of these treaties that it wants to of course—

Mr. MERITT (interposing). Of course Congress only takes into consideration the interests of the Indians.

Mr. CARTER. What I want to ask is this, does the Bureau of Indian Affairs subscribe to that policy?

Mr. MERITT. I think we have no objection to that as a policy.

Mr. CARTER. Then the policy of the Indian Bureau, no matter what sacred agreements they may have with the Indians, whenever the bureau sees fit to change those agreements, that it is its policy to change those agreements without consulting the authorities of the tribe.

Mr. MERITT. No; I did not make that statement. Not at all.

Mr. CARTER. That is what I understood.

Mr. MERITT. No; I did not make that statement at all; I would not want those words to be put into my mouth.

Mr. CARTER. Well, now, that is exactly what I understood you to say, Mr. Meritt.

Mr. MERITT. No; I based my statement upon the decision of the Supreme Court of the United States and the Indian Bureau has no fault to find with that decision. That is as far as I care to go on that proposition.

Mr. CARTER. You do not care to say whether the bureau or what the policy of the bureau has with regard to going further—

The CHAIRMAN (interposing). He simply stated that the bureau has no objection to a policy of that kind.

Mr. MERITT. I think the Congress of the United States can be relied upon to protect the interests of the Indians.

Mr. CARTER. Yes.

Mr. MERITT. And I think it is within the authority of Congress to authorize the distribution of these Chippewa funds, notwithstanding the fact that there is a provision on the statute books which says that the funds shall not be distributed until the expiration of 50 years. I think that the legislation of that character is absolutely detrimental to the interests of the Chippewa Indians. I think the best interests of the Indians would be to make a distribution of this property now so that the able-bodied competent Indians can use that fund rather than have that fund passed on down to the next generation.

Mr. CARTER. I agree with that. Now, what I want to ask is then if a claim should come in from these Chippewa Indians born hereafter, so long as you are connected with the Indian Bureau they would not have the approval of your bureau for funds out of the Federal Treasury.

Mr. MERITT. No, sir; I do not believe that they would get anywhere with any such a claim.

Mr. BALLINGER. Mr. Chairman, I would like to suggest with regard to the legal question that if the members of the committee will examine the case of *Minnesota v. Hitchcock*, (187 U. S.), and the case of the *United States v. Mille Lac Indians* (229 U. S.), it will probably clear them up with reference to this matter.

Mr. MERITT. We are familiar with those decisions.

The CHAIRMAN. If there are no objections, we will adjourn the committee with regard to hearings on this particular subject until Monday, March 8, 1920, at 10.30 o'clock, a. m.

(Whereupon, at 12.20 o'clock p. m., the committee adjourned.)

SUBCOMMITTEE OF THE COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, Monday, February 9, 1920.

The subcommittee met at 10.30 o'clock a. m., Hon. John A. Elston presiding.

Mr. ELSTON. The committee will please come to order. In the absence of Mr. Snyder, it falls to me to call the meeting to order as chairman. It would be well for Mr. Meritt, who is here this morning, to explain to us just what the purpose of this hearing is.

STATEMENT OF MR. EDGAR B. MERITT, ASSISTANT COMMISSIONER OF INDIAN AFFAIRS.

Mr. MERITT. Mr. Chairman, a few days ago about 20 full-blood members of the Chippewa Reservations came into our office somewhat unexpectedly and wanted to be heard regarding their affairs. We did not know that they were even coming to Washington until after they had arrived here. After hearing these Indians we thought it only proper that they should be heard by the House Committee on Indian Affairs inasmuch as they will have to leave the city very shortly, being without funds, and inasmuch as this Chippewa matter is coming up at the regular hearing on March 8. These Indians will be unable to be here at that time.

Mr. ELSTON. Their testimony will bear on what bill that is before the committee?

Mr. MERITT. There is a bill, H. R. 12103, introduced by Mr. Ellsworth, being entitled, "A bill to aid in winding up the affairs of the Chippewa Indians of Minnesota."

There are several provisions in this bill which are exceedingly objectionable to the full-blood Chippewa Indians and also to the Red Lake Indians. First, they object to the general council of the Chippewa Indians having a representation on the commission to wind up their affairs, claiming that that council does not represent the full-blood Indians and that they are opposed to their interests. Second, the Red Lake Indians are opposed to the provisions in the bill regarding the allotments on the Red Lake Reservation. We have recently received protests from the Red Lake Indians against allotting of their reservation. It is claimed by the Red Lake Indians that the general council of the Chippewa Indians want the Red Lake Reservation allotted so that they can later share in the surplus property of the Red Lake Indians, and the Red Lake Indians claim that the White Earth Indians and the other Indians from the other reservations besides the Red Lake are not entitled to share in that property.

There has been also a protest filed against an appropriation for a number of years for the general council of the Chippewa Indians. The full-blood Indians claim that if there is an appropriation to be made it should be made annually rather than for a period of years. The old Indians who are here also refer back to some of the old treaties and claim that those treaties have not been carried out. They were not able to explain to the office very fully their meaning in the short hearing that we gave them, but we will give them another hearing and try to find out just what they want.

Mr. ELSTON. Are the Indians now present here represented by counsel at this hearing?

Mr. MERITT. No, sir.

Mr. ELSTON. They are to testify, every one being his own spokesman.

Mr. MERITT. Yes, sir.

Mr. ELSTON. This matter was called at this early date upon the request of the department, and I understand at the urgent request of Representative Carss, of Minnesota, who is very much interested in the matter and who desired that these Indians have as early a hearing as possible in order that they would not be put to great expense by delay. Mr. Carss has represented the matter in such a way as to indicate that it would be proper for us to have this meeting this morning. Representative Carss, do you desire to make any statement at this time.

STATEMENT OF HON. W. L. CARSS, A REPRESENTATIVE IN CONGRESS FROM MINNESOTA.

Mr. CARSS. I have no statement to make. I was interested in this matter to find out just as much as I could about the conflicting claims, and it was represented to me that these men were not financially able to remain over until the regular hearing, and in order to enable them to put their claims before the committee, I made this

request to talk the matter over with the commissioner. I do not know that I have anything further to say. My only interest is to find out just exactly what their claims are and to see if they have any valid reason to urge why the regularly elected council should not represent them. As I understand, there is some friction there, and I would like to have the matter cleared up to my own satisfaction.

Mr. ELSTON. That is, it is desired to have the matter fully heard here and testimony given and have an opportunity given to these people here to have a fair hearing.

Mr. CARSS. Yes; that is what I would like to see done.

Mr. ELSTON. I suppose the order now would be to hear from the delegation selected to testify for them.

Mr. MERITT. That is what is expected.

STATEMENT OF LOUIS AYNESNASSUNG, INTERPRETED BY JOHN GOSLIN.

Mr. ELSTON. Whom do you represent?

Mr. AYNESNASSUNG. I represent the various tribes in the State of Minnesota; the balance are those from Wisconsin.

Mr. ELSTON. What are the names of the tribes?

Mr. AYNESNASSUNG. The Chippewa Tribe of Minnesota and Wisconsin.

Mr. ELSTON. Are you chief or elected representative of these Indians?

Mr. AYNESNASSUNG. Yes.

Mr. ELSTON. Of what band?

Mr. AYNESNASSUNG. Fond du Lac Reservation, Minn.

Mr. ELSTON. State what you want the committee to know and what objection, if any, you have to this bill?

Mr. AYNESNASSUNG. Honorable House of Representatives and Committee on Indian Affairs, I appreciate the opportunity to make my appearance as to the bill that will be presented by the delegates here, which is being proposed to have passed and become legislation.

Mr. ELSTON. What have you to say about the bill?

Mr. AYNESNASSUNG. The delegation you see here present at this meeting are members of the Chippewa Tribe, representing the various bands of Indians on the reservations from Minnesota and Wisconsin. I came here with the purpose to look into the interests of the treaty right which we have in common, the treaty that was made in 1842. That was my purpose when I left where I came from, but since this bill has been brought before us I will speak in behalf of the Chippewa Tribe. That is, the delegates from this part of the country do not know any such bill is being proposed by any delegates that are supposed to represent the Chippewa Tribe. We have not heard what the bill was for until we arrived here.

Mr. ELSTON. Are you for or against the bill?

Mr. AYNESNASSUNG. Any bill or any legislation which concerns my tribe where I come from and that I do not know anything about, I oppose it; but if I should happen to be told and consulted about it, well, I will think and consider and do what is right.

Mr. ELSTON. Did you see the bill or hear about it before you came to Washington with this delegation?

Mr. AYNESNASSUNG. I never heard that there was such a bill or ever seen it or ever was given any explanation of it.

Mr. ELSTON. Why did you and this delegation come to Washington? What was your errand?

Mr. AYNESNASSUNG. I came here for the purpose of the treaty that was made between my grandfather and the Government, to find how I could proceed in order to obtain the rights and privileges given me in that treaty.

Mr. ELSTON. Have you read the bill or had it read to you?

Mr. AYNESNASSUNG. Yes; it was read to me and I have it here.

Mr. ELSTON. What points in the bill or what parts of the bill are objectionable?

Mr. AYNESNASSUNG. The bill that I have aloft in my hand here is a bill that I do not understand and have not been consulted or given an explanation thereof, and I oppose it for this reason, that any such bill it is the custom amongst the tribes wherever such a bill is proposed to be passed that it is requested that the Government officials consult with the Indians, as I understand, and, therefore, I believe that when such a bill is being proposed, before it becomes legislation, I should be consulted as to what opinion I may have, as it may help me to a certain extent, if explained in a proper manner, and it comes on the basis of a legal principle. I do oppose it for this reason, that the delegates that are supposed to represent my tribes where I come from are not legally appointed by the Chippewa Tribe of Indians. They are not appointed by a legal council. It does not come from the right source, and I have not been notified by these delegates that were sent here to propose this bill.

Mr. JOHN ARTEN, of Superior, Wis. That interpretation of that is absolutely wrong. The interpreter is not interpreting as to what the man says. You asked him what part of that bill he objected to.

Mr. ELSTON. Do you represent the other side?

Mr. ARTEN. Yes.

Mr. GOSLIN. I will come to that in a moment.

Mr. AYNESNASSUNG. Here is where the allotments are to be issued out among the members of the tribes. The competent Indian will enjoy the benefits of allotting these allotments, whereas the non-competent will not enjoy the same privileges as the present Indians that are enjoying the privilege of competency. It seems to me to be under the control of another party where a competent Indian will be deprived of such restriction.

Mr. ELSTON. Do you expect to be competent or do your people expect to be competent before long, and when they reach their competency will they have the same rights with the others?

Mr. AYNESNASSUNG. I understand the meaning and purpose of this bill, but I say here that it is the right of my people. We do not know the persons that drew up this bill. We do not know their character. We do not know them personally and we do not know them to refer them, do not know their history or their principle, and if I want such a man I want somebody that I know to represent me and do an act that would benefit me. There has been an appropriation made here for all these delegates that have come here from time to time, to defray their expenses and all such as that, but of the appropriation that has been granted to them for their expenses, the remainder of it after the expenses have been defrayed, they have divided among the

few that have been here at Washington. That is what we object to, and I say that if I wanted that man to represent me, I would have the council of mine appoint a delegate that should represent me. But I do not know this gentleman or any of the gentlemen that presented this bill and, therefore, I protest against it.

Mr. MERITT. He is now protesting against the \$10,000 appropriation carried in the Indian bill for the Chippewa council.

Mr. AYNESNASSUNG. After these delegates that have been here have gotten the bill through granting them certain appropriations, the Indian has been deprived of that appropriation and has not received any benefit out of it, only the few that have been here to represent the Indians.

Mr. HERNANDEZ. Who has read this bill to you? You can not read or write English yourself?

Mr. AYNESNASSUNG. No.

Mr. HERNANDEZ. Did you have a meeting with your people before you came here in order to explain the bill or have it read over?

Mr. AYNESNASSUNG. Where we stopped or boarded at the place I first saw the bill, and it was read and explained to me there.

Mr. ELSTON. He said that they had no notification of this delegation coming on here; that is, this other delegation. How is that? Was it not made public there in that country and did not most people know that that delegation was coming on here?

Mr. AYNESNASSUNG. They had a council where they did not notify Indians what his purpose was. In my council I have a council hall where I hold councils and there it is my desire when any tribal matter comes up for discussion that it is the proper place to bring this matter up and tell me what the object of it is, and then I would be satisfied. But where I simply hear that they will only want a certain type of Indians to meet at a certain place, that is where an Indian is barred out again.

Mr. ELSTON. Do you know what the law is with regard to Indian councils? Why do you think this council was not regular in so far as you know about the laws?

Mr. AYNESNASSUNG. The treaty that was laid down for me and the provisions that are in the treaty it states jurisdiction was barred on my reservation. That is the case where I come from; that is the object what they want to do with me, and it is the custom and this custom is law, that not being able to produce anything in writing and not able to speak the English language, it was the proper place for them to explain it to the Indians.

Mr. ELSTON. Are you chief of your tribe by inheritance or election?

Mr. AYNESNASSUNG. It comes from away back, my grandfather and great-grandfather have been chief, and my father was chief, and now I am the chief.

Mr. ELSTON. Have you any specific objections to the bill?

Mr. AYNESNASSUNG. The interpreter has read to me these 15 sheets of paper, and some things have been brought out that would conflict with the treaty rights that I have where I come from. I leave it to my interpreter to explain those things to his best ability.

Mr. ELSTON. State what he has told you.

Mr. GOSLIN. Not attempting to speak in his language by interpreting, and to take the full advantage of the time he wants me to explain the rest of it.

Mr. ELSTON. Unless he has told it to you, we will take that up later.

How do you want this thing done if you should have the arrangement of it?

Mr. AYNESNASSUNG. If I proposed any such a bill to be passed, I would only ask the gentleman to have legislation passed that would not conflict with any of our Indian property or the property that is now my property.

Mr. GOSLIN. He means to say that the Fond du Lac Indians have no authority or power or any title on the White Earth Reservation, and the White Earth Reservation has no power to rule or control the tribes on the Red Lake Reservation.

Mr. ELSTON. Are you satisfied to let things stay as they are now without any legislation?

Mr. AYNESNASSUNG. Delegates who are here at present were sent here for the purpose of discussing the 1842 treaty for certain rights that they have in the treaty and after their affairs have been settled properly and gotten what their purpose is in coming here, what they were sent here for, they will go back to their people and hold a general council of the tribes included in the treaties, and then they propose to make a new treaty which will settle the standing of their people.

Mr. ELSTON. We thank you for your kindness in coming here.

Mr. COLE. I think it would be a good suggestion, if they knew nothing about this bill until brought here, to give them an opportunity to discuss it among themselves.

Mr. ELSTON. What proportion of all the bands or of the total population in all the reservations does this delegation represent? Is it a half or a third or a fourth, or what is the percentage of the total Indian population which this delegation represent?

Mr. AYNESNASSUNG. I can not figure the percentage that I represent. I can furnish you the list of names that I represent here.

Mr. TILLMAN. Do you know about the percentage?

Mr. GOSLIN. About 20 per cent.

Mr. ELSTON. You think it is only about one-fifth of the whole Indian population that this delegation represents?

Mr. TILLMAN. Not the Indians here, but those that the delegation represents. What percentage of the whole tribe does the delegation represent?

Mr. GOSLIN. They represent about 75 per cent of the tribe where they come from. The property owners among the Indians are so varied that the agitators are only about 25 per cent of them.

Mr. CARSS. Were these men present when you held the council at White Earth last fall and selected delegates to come down here?

Mr. AYNESNASSUNG. The gentleman standing over there (Mr. Arten), I did not know that he was coming to Washington at all until I saw it in the paper that I get at home. I did not know who elected him to represent the tribe.

Mr. CARSS. Then you were not present at that meeting where these delegates were chosen?

Mr. AYNESNASSUNG. The council that compose the Chippewa Tribe, I always hear of such a council going to be held, but the half-breeds, I never heard of their council.

Mr. ELSTON. That is very good. I think we have got his statement.

Mr. AYNESNASSUNG. I was advised by the people I represent here when I left where I come from not to mingle with any other people or any other parties or other delegates that may be here, but since I got here and saw this bill I notified the people right away what was going on here and they told me not to do anything except what they sent me here for. My purpose is to look after the treaty of 1842.

Mr. ELSTON. Very well. We will hear the next witness.

Mr. MERITT. I think Mr. John Arten ought to be heard now, inasmuch as he represents what is known as the general council.

Mr. ELSTON. Of course, there are two sides to this. One side has been heard to a certain extent in explanation of the bill which they are in favor of. If Mr. Arten has any matter in rebuttal in contradiction of what has been said, I think we should hear the direct testimony first.

STATEMENT OF MR. JOHN ARTEN, SUPERIOR, WIS.

Mr. ARTEN. I want to have the record show that the gentleman said that he was not there when the representative of the council was elected.

Mr. CARSS. He said he was not notified.

Mr. ARTEN. By the request of the Bureau of Indian Affairs, the council elected our delegation. This gentleman (Mr. Aynesnassung) is now under another name. I never knew he had another name until he gave it here. His name is John McCarty, where he comes from. I am from the same reservation that he lives on. He says that he was not there when the delegation for the general council was appointed. He was there; I know he was. He made a statement there. He tells your committee here that he was not notified of these things. Our council, gentlemen of the committee, is handled just like your elections of Congress. We have a constitution, a local constitution governing the councils of local reservations, and a constitution of the general council.

Mr. ELSTON. I think that is a matter for Mr. Meritt to explain to us. This hearing is to hear these particular 20 delegates, and not to consider testimony in rebuttal which can be brought out later. We will be perfectly willing to hear testimony from you people also, but I think we had better finish with this direct testimony of these witnesses first.

Mr. MERITT. Mr. Goslin has a statement to make in his own behalf, not as interpreter.

STATEMENT OF MR. JOHN GOSLIN, CHIPPEWA INDIAN RESERVE, WIS.

Mr. GOSLIN. I am a resident of the Lac de Orelle Reservation, Wisconsin. There are certain articles that conflict with the 1842 treaty. We have a title in common that belongs to us, but separately, on reservations, we have no other rights and no other title outside of our own reservation. I am not opposing this bill to the extent that it will be detrimental to the people and to a certain extent beneficial to us, providing that the treaties laid down by our grandfathers, the treaties made with our grandfathers, owing to certain property that they owned, which we demand. We come here for the purpose of looking and to try to persuade our commissioners to give us what to

ment of the property and the financial standing of our reservation, and after we have fulfilled this thing, then we are ready to draft a bill which will, as you say, give us a right title and a right channel to live on, but as we are down there, we are practically tied. We do not enjoy the privileges that a citizen should enjoy to a certain extent for that reason. You take the noncompetent Indian. He is handled like you would your own child; you bring him up and rear him like he was an infant. You look after him, and see that everything is provided. Why does he not enjoy those certain privileges? Because the competent Indian has not been partial enough to look after it. You might as well say his father and mother give him the same interest that he tries to attain for himself. If he attains certain privileges and restrictions, he still wants to go as incompetent.

Mr. ELSTON. What are those privileges that you want?

Mr. GOSLIN. We came here to lay down the treaty of 1854 and ask the committee to comply with that.

Mr. ELSTON. In what respect does it give you rights that you are denied now? What other things does it give you that you are not given now? What is it that you want?

Mr. GOSLIN. If any legislation should happen to be passed, and the date of ratification of the bill would deprive us of a common title; it would deprive us of the treaty rights which would come to a final settlement according to the treaty.

Mr. ELSTON. Would you expect that you or your tribe alone would decide these treaty rights without referring them to the United States or State courts?

Mr. GOSLIN. For this reason I oppose again the judicial part of the bill. For instance, if the bill should pass, and the Indians should claim themselves competent, they are competent enough to follow such cases up with the courts, beginning with the lower court and going to the higher court. Your competents, as they call themselves, are competent enough to defend their title against such matters without getting and hiring a professional to squander their money.

Mr. ELSTON. How are you going to get at your rights? You can not say our treaty says so and so, and if the Government says no, or the other factions in your tribe say no, who is going to decide it?

Mr. GOSLIN. I say this. Take our half-breed brethern over there. Why don't they come to us and say, let us propose this bill and come to a final principle that we may work together and draw all the benefit we can derive from it. We are willing to compromise with them on those grounds, but they simply go to work and consult their own members and their friends to work for certain principles and leave the Indians out.

Mr. ELSTON. Were you at this council?

Mr. GOSLIN. No; I was not.

Mr. ELSTON. Did you have notice?

Mr. GOSLIN. No.

Mr. ELSTON. Could you have voted if you wanted to?

Mr. GOSLIN. I could have voted if I got a notification that there was such a meeting.

Mr. CARSS. You had no notice?

Mr. GOSLIN. No.

Mr. CARSS. Where do you live?

Mr. GOSLIN. Reserve, Wis.

Mr. CARSS. You are not in a Minnesota band?

Mr. GOSLIN. No.

Mr. ELSTON. Do you maintain now that 75 per cent of the Indians that live in all those reservations were not notified of this council, but that the little one-fourth got together and put over something?

Mr. GOSLIN. Yes, sir; I claim that 75 per cent of the Indians on the reservation were not notified for this reason, that 75 per cent of these Indians there are incompetent Indians. They post up notices, but a man that can not read or write, what does he know about a notice until he is given an explanation?

Mr. ELSTON. Are there not people like yourself who can read and write who can explain it to him?

Mr. GOSLIN. Probably there would be one where there is a Government office. There is one posted there and maybe one at the agency. Every Indian does not go to the Indian agency or the farmer's office every day.

Mr. ELSTON. Did you see any of these notices after they were posted?

Mr. GOSLIN. No, sir.

Mr. ELSTON. You knew nothing of this council?

Mr. GOSLIN. No, sir; not until after the delegates drew up their report, then I heard of it.

Mr. ELSTON. You did not know that a meeting was to be held until after it was done, and then what they had done was told you?

Mr. GOSLIN. Yes.

Mr. ELSTON. Were you on the Minnesota Reservations while this meeting was held and while the notices were posted?

Mr. GOSLIN. No, sir.

Mr. ELSTON. You had no means of getting that?

Mr. TILLMAN. You contend that 75 per cent of the whole tribe had no notice, no actual notice, no constructive notice, or any kind of notice?

Mr. GOSLIN. No, sir; and it is the desire of our delegates, in passing any bill which is passed—we only ask for our reservations—not to pass any bill that will conflict with any treaty prior to January 14, 1889.

Mr. COLE. Then, if these treaties were properly interpreted, your tribe would be satisfied without the passage of any legislation at all?

Mr. GOSLIN. All these treaties prior to that, in the treaties of 1864 and 1842, if they were properly settled and the Government fulfilled its agreements, I am willing to take my citizenship and live under the American flag.

Mr. TILLMAN. Speaking for yourself and 75 per cent of the tribe, you claim that the half-breeds deceived you and were putting things over on you in not giving notice of these meetings. Do I understand that to be your attitude?

Mr. GOSLIN. I understand that to be the case where I come from.

Mr. CARTER. Whom do you represent?

Mr. GOSLIN. Lac de Orelle Reservation, Wis., Reserve, Wis.

Mr. CARTER. Were you elected by your council to come here?

Mr. GOSLIN. Yes, sir; I was elected by my people.

Mr. CARTER. Who pays your expenses down here?

Mr. GOSLIN. They pay our expenses.

Mr. GOSLIN. Yes.

Mr. CARTER. Are they all full-bloods in Minnesota?

Mr. GOSLIN. Full and mixed bloods on our reservation.

Mr. CARTER. They got together and selected you to come here and agreed to pay your expenses?

Mr. GOSLIN. They selected me to come here and interpret.

Mr. CARTER. Did they have a meeting when they did that or how were you selected?

Mr. GOSLIN. They had their council and selected me.

Mr. CARTER. Was that council a large meeting of the people?

Mr. GOSLIN. It was a general mass meeting of the people.

Mr. CARTER. How many were there?

Mr. GOSLIN. There were about 60 in the first meeting, January 25. The second meeting was held on January 28, on Tuesday, where the agent was called up, and I was not present there at that meeting. The following Sunday, January 31, there was a meeting again, at which I was present. I do not know just the exact number there, but I might say between 60 and 70 per cent of the population.

Mr. CARTER. How many are there on that reservation?

Mr. GOSLIN. One thousand two hundred.

Mr. CARTER. And you claim there were around 700 at this mass meeting?

Mr. GOSLIN. Yes.

Mr. ELSTON. What is your business?

Mr. GOSLIN. Common labor.

Mr. ELSTON. What is the business of the gentleman who just preceded you?

Mr. GOSLIN. Farming.

Mr. CARTER. What is it that you object to about this bill? What portion of the bill do you object to?

Mr. GOSLIN. There are certain articles in that bill I favor, but the only thing I object to first of all is that the people that I am interpreting for claim that the bill does not come from legal sources.

Mr. CARTER. You are for the bill, then, but you just oppose the method by which the claims of the Chippewa has been presented. Is that what we understand?

Mr. GOSLIN. Yes, sir. I favor the bill provided that the delegates are legally appointed and have the right power to draw up such a bill.

Mr. CARTER. The delegates would have nothing to do with passing the bill. Congress has to do that. Suppose Congress would take up this bill and pass it without reference to what any of you say? Would the bill be satisfactory to you?

Mr. GOSLIN. No. I would oppose this bill now. My people came here, sent me here to look after the treaty of 1854, until the settlement is given to me, and the fulfillment of the treaty has been made to me.

Mr. CARTER. Do you claim this bill violates your treaty of 1854?

Mr. GOSLIN. Yes.

Mr. CARTER. Can you tell in what respect it violates it or point out how it violates that treaty?

Mr. GOSLIN. There are certain articles in the bill that would deprive us of certain titles and which would deprive the noncompetent Indians of certain rights.

Mr. CARTER. What rights are those?

Mr. GOSLIN. It would be this, that the incompetent Indians would not enjoy the same privileges as the competent Indians.

Mr. CARTER. I understand, but can you tell us just briefly the rights it would take away from noncompetent Indians?

Mr. GOSLIN. He would not have the right to allotment. The allotment of any funds derived from the allotment or from the sale of his timber would be under the control of another party, a guardian or administrator.

Mr. CARTER. It is not that way now?

Mr. GOSLIN. It is that way now.

STATEMENT OF MR. WILLIAM LUFKINS, WHITE EARTH RESERVATION, MINN.

Mr. ELSTON. Tell the committee what you want us to know.

Mr. LUFKINS. In the first place, I came to represent at least 2,500 people from the White Earth Reservation. I expect to be at the regular meeting later and at this time I do not very much like to give out something that I want to present at that time, because I am an Indian, a hunter, and I used to hunt geese. I went for a goose where there was a bunch of them; they would tell me that they were there, and I do not like to do that.

Mr. ELSTON. You might say whether you are in favor of the proposition generally presented by this delegation here to-day.

Mr. LUFKINS. I could not say that.

Mr. ELSTON. Do you want to go into details here at all to-day?

Mr. LUFKINS. Just a little.

Mr. ELSTON. Go ahead with what you want to say.

Mr. LUFKINS. In the first section of the bill—that is, the commission—I see there is a bunch of jobs in it. There is a commission of three, one to be appointed by the President of the United States, one by the Secretary of the Interior, and another by the president of the general council of the Minnesota Chippewas. There are two factions on the White Earth Reservation and two councils. Our council has been incorporated under the State of Minnesota and we have our certificate of incorporation. Of course, we have been temporarily enjoined at this time by the supreme court of the State. We do not care about this commission at the rate of \$10 a day. Of course, the treaty stipulation of 1889, if you will follow that alone, there are other treaty rights that would take away from us.

Mr. ELSTON. What is your business?

Mr. LUFKINS. I am a laborer. I do general work on the iron range, sample ore.

Mr. ELSTON. Did you come down representing some other bands of Indians?

Mr. LUFKINS. Yes. There are factions on the White Earth Reservation and there is one faction that I am sent down here from.

Mr. CARSS. For whom do you work on the Mesabi?

Mr. LUFKINS. For the Wilcox Mining Co., near Brainard.

Mr. ELSTON. By whom were you appointed and who pays your expenses down here?

Mr. LUFKINS. I pay my own expenses.

Mr. ELSTON. Who asked you to come?

Mr. LUFKINS. The White Earth Chippewa, one of the factions.

Mr. ELSTON. At a council meeting?

Mr. LUFKINS. Yes, sir.

Mr. KELLY. Is that a majority or a minority faction?

Mr. LUFKINS. A minority faction. We absolutely have no representation in the general council.

Mr. KELLY. You are a minority and you are afraid that if one man is named on the council that you will not be considered at all?

Mr. LUFKINS. We want representation not on this commission but on the election, on the recommendation.

Mr. HAYDEN. This original treaty of 1857 was adopted by a two-thirds vote of the Indians, was it not? Supposing we were to change the terms of that treaty, would you have to submit it to a vote of the people in the same way the original treaty was drawn? Would not that give you protection?

Mr. LUFKINS. There are some pending suits that are to be instituted which would conflict—null our case.

Mr. HAYDEN. You were complaining that you did not have representation in these negotiations?

Mr. LUFKINS. In those negotiations in the forming of this bill.

Mr. HAYDEN. If whatever is done by the people who negotiate the legislation must be submitted to a vote of the people, they can then pass on it and in that way get direct action on whether they approve of it or not.

Mr. LUFKINS. Yes. But you see the committee is dominated by the mixed bloods of the White Earth Reservation. We split last summer because we wanted representation. The majority rules. On the White Earth Reservation we have got to compete with automobiles and the latest methods of corrupt practices. They run 60 automobiles night and day gathering these men. An Indian, what does he know about these political wires.

Mr. HERNANDEZ. Were you at the council held on the White Earth Reservation?

Mr. LUFKINS. Yes, sir.

Mr. HERNANDEZ. Was it held by a majority of the people there on the White Earth Reservation?

Mr. LUFKINS. Yes; there was probably present 600 or 700 people.

Mr. HERNANDEZ. Do you represent here the majority or minority of the people; which faction?

Mr. LUFKINS. The minority of the White Earth.

Mr. HERNANDEZ. You are the minority?

Mr. LUFKINS. On the White Earth Reservation; yes, sir.

Mr. HERNANDEZ. Then, of course, all your deliberations in the council provide that the majority shall rule, do they not? In all legislative meetings and bodies and councils the majority must rule.

Mr. LUFKINS. The majority must rule, yes; but there is a question again which I do not like to bring up at this time, and I would not like to answer it at this time. Please excuse me on that, because I want to consult them.

Mr. COLE. Do those factions have names—one of them republican and the other democratic?

Mr. LUFKINS. No, sir; One is full bloods and the other mixed bloods. That makes the difference.

Mr. SINCLAIR. Who are in the majority?

Mr. LUFKINS. The mixed bloods are in the majority on the White Earth Reservation.

Mr. SINCLAIR. The mixed bloods rule, then.

Mr. KELLY. Would you say that the majority is an honest majority of the people on the White Earth?

Mr. LUFKINS. Yes.

Mr. ELSTON. We thank you very much for your statement, Mr. Lufkins. I understand you will want to be heard on this later.

Mr. MERITT. Mr. Paquette would like to be heard. He is from the Nett Lake Reservation.

STATEMENT OF MR. F. H. PAQUETTE, NETT LAKE RESERVATION, MINN.

Mr. ELSTON. Give your business and residence.

Mr. PAQUETTE. My business is Indian missionary. I am located at Boise Fort Reservation at Nett Lake Agency.

Mr. ELSTON. What tribe are you a member of and what reservation?

Mr. PAQUETTE. The Chippewa Tribe, Boise Fort Reservation.

Mr. ELSTON. Go ahead.

Mr. PAQUETTE. I do not fully understand the argument, Mr. Chairman, this morning, at this meeting, and practically I have nothing to offer contrary to the proceedings of this committee meeting. I came here with the delegates from the Boise Fort Reservation, and they present us this bill; that is, before this committee met this morning, and after reading and interpreting it thoroughly to them, I asked them what they thought about the bill. They say we have nothing to say at all. We will take it home and consult the rest of the members about what this bill contains. I will tell you, Mr. Chairman and members of the committee, the Boise Fort Indian is neutral in these two factions and has been neutral. Last year, by the direction of the Indian Affairs we met as a delegation at Cass Lake to decide this great indifference between the Chippewa Indians of Minnesota.

When the meeting was opened by Mr. Dickens, who was sent by the department there, again arose a faction, after we had presented our credentials as delegates from the Boise Fort Reservation; a faction arose by the White Earth (Minn.) people and that is why I say we are neutral in this indifference, whereas we had presented our credentials as legal delegates to this general council by order of the department of Indian affairs in presenting our credentials there was a division arose between the White Earth delegations, which divided the house, I might state. The full-bloods walked out and made a council of their own while the general council went on its business in its deliberations, and we were betwixt and between, we Boise Fort Indians, and when we found out the way the question stood, although we had presented our credentials, we stayed to this general council where we were sent to attend.

Mr. ELSTON. You stayed there and did not walk out?

Mr. PAQUETTE. We stayed.

Mr. ELSTON. State in a few words just what the difference is between these two factions. What does the full-blood faction want and what is it they can not get? What is that the half bloods have got that the full-bloods do not want to have? State that clearly.

Mr. PAQUETTE. I do not know whether I am authorized to make such a statement at this hour.

Mr. ELSTON. You would rather wait until March 8 to bring this matter fully out?

Mr. PAQUETTE. Because I would have to consult my people, as I stated, and after viewing this bill and studying it thoroughly, before we can come out and say we want to amend this and we approve that and disapprove this. I am not in shape to stand here in this committee room and suggest what ought to be done as an interpreter for the delegation.

Mr. ELSTON. As near as you can make it out, what is the recommendation that your people want to make right now? What is your suggestion?

Mr. PAQUETTE. I might state here again that we came on local affairs; we did not come here on general affairs. We presented our council proceedings and resolutions to the office and we got our reply and some of that is not really satisfactory as we would like to have it, but under the conditions we are told by the Indian Office that all our appropriations are cut to carry out the wishes of your people at this time.

Mr. ELSTON. You know, Mr. Paquette, that that is true, that Congress has tremendously cut the total of the Indian appropriation bill, and that the Indian Bureau has not as much money as it expected to have and wanted to have. You had better explain that to your people.

Mr. PAQUETTE. We wanted road money. We have not enough roads on the Boise Fort Reservation. Of course, since the appropriation bill is done with we are unable to have, at least, \$10,000. I talked to the legislative committee and I talked with the Commissioner of Indian Affairs. They say you can not get any money.

Mr. MERITT. In that connection, I will say that we had included in our estimates an appropriation for roads in the Chippewa country and representatives of the general council had that item cut out on the floor of the House.

Mr. HERNANDEZ. That is tribal funds.

Mr. MERITT. Not available without authority of Congress.

Mr. ELSTON. Have you anything further to offer?

Mr. PAQUETTE. No.

Mr. MERITT. Did you want to state anything, Mr. Paquette, that you pointed out this morning, so the committee may get the benefit of it.

Mr. PAQUETTE. We have talked the matter over in regard to the appointment of this commission of three. Now, as I was talking to the Indians representing the Boise Fort Reservation, they claim they would rather have a committee appointed by the President, secretary, in fact, have all these three appointments right from Washington. It would be more satisfactory to them rather than any of us to appoint the other member of the committee of three.

Mr. ELSTON. If that other appointment is made, you are afraid it will be from one of the other factions and there will not be fair dealing.

Mr. MERITT. You also pointed out an objection to the \$15,000 for a period of five years.

Mr. PAQUETTE. That is another thing they have talked about. They thought best to have this appropriation annual instead of extending it for five years.

Mr. ELSTON. Who is the next witness?

Mr. MERITT. Mr. Graves.

**STATEMENT OF MR. PETER GRAVES, CHIPPEWA INDIAN,
MINNESOTA.**

Mr. ELSTON. What is your business?

Mr. GRAVES. I was a Government employee until last May. I resigned because the mixed-bloods faction accused me that my motive was to prolong the Indian Bureau so that I could hold my position, and for those reasons I resigned.

Mr. ELSTON. What are you doing now?

Mr. GRAVES. I was census enumerator before I left a short time ago.

Mr. ELSTON. Who sent you here?

Mr. GRAVES. The Red Lake Band.

Mr. ELSTON. Did they pay your expenses?

Mr. GRAVES. They made a collection and paid my way down and have authorized the commissioner to look at my expense while down here.

Mr. ELSTON. Go ahead with your views.

Mr. GRAVES. I wish to reserve my statement until the proper time.

Mr. ELSTON. What do you wish to state now?

Mr. GRAVES. I have to consult an attorney for my statement as to the proposed bill, the Ellsworth bill. Of course, let me mention about Mr. Paquette's reference to the general council of the Chippewas out in Minnesota at Cass Lake last July. For the rest of the provision, the first part of this item says that there is to be a commission created by this act and it would take three men. These here full-blood Indians, these men here, I could not understand anything what they had said. I was trying to get something so that I could probably obtain some interest in the statements they have made, but I will frankly state that I did not understand what they are talking about. Such is the condition of these Indians in Minnesota. They are really noncompetent. Now, these mixed bloods will make you believe that all the Indians in Minnesota are just the same as they are, merchants and lawyers and such as that. Now, Walter F. Dickens was our superintendent at Red Lake and he was transferred to White Earth. After he was transferred to White Earth his chief clerk stayed there at Red Lake, and this chief clerk approached me and said: "Pete, it would be the correct thing if the Red Lake Band would reenter into the general council of the Minnesota Chippewas. That would be the best thing for them to do." I told him then that I did not think so nor would I advise the Red Lake Band to do so as that would be just to put themselves into a scheming gang that would dictate with regard to their affairs and misrepresent them here of their real conditions. Mr. Cross, the present superintendent there at the Red Lake Agency, a few days afterwards told me that he got a letter from Supt. Dickens, of the White Earth, suggesting that he use his influence with the Red Lake Indians to reenter into the general council of the Minnesota Chippewas. I came down here as an observer of the council. During this session at Cass Lake Mr. Cross came down also, and he asked me, "How is this council going to come out; what do you think about it?" I said, "Since Supt. Dickens is going to have temporary charge of the council he is going to have that council with all these

mixed bloods." I said, "You know that as well as I do." He said, "Yes, I think so."

I did not see this bill until a short time ago, and that \$10 a day job is for Walter F. Dickens. I was coming down to Bemidji, and should Mr. Dicken's father has a farm between Bemidji and Ridgway and I was riding on the train. He was talking to this old man, talking to the father of Walter F. Dickens, talking to a man they knew, and he said, that Dickens, I like that place down in Texas, that he was going back soon, that John Morrison was going to have a good position for him.

Just by accident I found that out and that is where it says, is put in this bill where it will give Mr. Dickens \$10 a day for having turned over the general council—over to these mixed bloods.

MR. ELSTON. Are you competent; have you ever been declared competent?

MR. GRAVES. No; I am a ward of the Government.

MR. ELSTON. Have you ever applied for competency?

MR. GRAVES. No, sir.

MR. ELSTON. Why not?

MR. GRAVES. Because I am not in position to do so at present.

MR. ELSTON. Why not?

MR. GRAVES. Because I am unallotted.

MR. ELSTON. And do you want to get competency?

MR. GRAVES. No, not just at the present time.

MR. ELSTON. Why not?

MR. GRAVES. Because I do not want my people to be robbed like the White Earth Indians were robbed. We want the protection of the Government of the United States. In the council of the Red Lake Indians, December 27, 1918, they called on the Government of the United States for protection from these mixed bloods—designing mixed bloods.

MR. ELSTON. You are a mixed blood?

MR. GRAVES. Yes, sir; I am a mixed blood.

MR. ELSTON. Which predominates in numbers, mixed bloods or full bloods?

MR. GRAVES. In the Red Lake Reservation?

MR. ELSTON. Well, generally speaking; I mean the persons who are interested in this bill.

MR. GRAVES. Well, of course, now, I can only speak for the Red Lake people.

MR. ELSTON. How about the Red Lake Indians?

MR. GRAVES. Well, the Red Lake Indians, I should judge, about 95 per cent—

MR. ELSTON. Of what?

MR. GRAVES. Ninety-five per cent of those want the Government to protect them. Ninety-five per cent of these want the protection. Five per cent of those mixed bloods would sell themselves for little to the chiefs of the mixed bloods.

MR. CARTER. How many full bloods are there?

MR. GRAVES. Well, sir; I can not give you that information, because there is a good deal of white blood that has been mixed in.

MR. ELSTON. You do not know anything about the other people?

MR. GRAVES. I am not able to make any statement pertaining to the other part.

Mr. ELSTON. Well, now, in just two sentences—in just a few sentences—what would you suggest to the committee; what would you say that we ought to do now?

Mr. GRAVES. The Red Lake Indians want to be strictly let alone by the mixed bloods. They want to be left alone. You can leave the Red Lake Indians out. The Red Lake Indians want no allotments, and the mixed bloods have got nothing to do with the affairs of the Chippawa Indians. The Red Lakes do not have anything to do except with the affairs of the Chippawa Indians.

Mr. ELSTON. Well now, gentlemen, I understand that you have explained to your representatives about what your objections are to the bill, and that you want this bill considered very carefully. What the committee wants is information from you, and we want you to help us. Now, you have not offered any definite suggestions, but what you have said is very general. You have come here and made general objections. Of course, this is a big question and we are going to proceed carefully on it. Is there anybody else present that would like to be heard? We are giving you a full hearing, and we want to hear what you have to say.

Mr. GOSLIN. There is one further remark that I would like to make, and that is this: Any man that has a little Indian blood in his veins who becomes enrolled to a certain band of Indians is a member of that tribe, but is not a titleholder and, therefore, if you will investigate, you will find that a majority of them were members that were enrolled.

Mr. ELSTON. We are very glad to have that statement, Mr. Goslin. Now is there anything else? If there is nothing else, and if the committee has heard everything that you have to say—you understand there will be a later hearing and we will go into this further.

Mr. BEAULIEU. Mr. Chairman. I would like to make a statement.

Mr. ELSTON. I do not think it would be proper to hear any outsiders, or anyone opposed to this at this time, inasmuch as this hearing was for this particular group that came here, and I think we can hear you sometime later, we can hear your statement at some other time on the matter. The committee is not going to decide this thing in a minute and there is no use of bringing up a controversy because we do not want to have that at the present time.

Mr. BEAULIEU. Why, what I had in mind was I wanted to say that perhaps you do not seem to understand——

Mr. ELSTON. Well be brief.

STATEMENT BY MR. FRANK D. BEAULIEU, WHITE EARTH, MINN.

Mr. BEAULIEU. There seems to be objection to this bill for the reason that they have an old treaty claim, which is the treaty of 1889, which it conflicts with or wipes out. Now, this bill which you are discussing provides that all claims arising under any treaty where the Indian has suffered any damage shall be referred to a Court of Claims, and I think that if the gentlemen will read that bill, if someone will read it who understands it, and explains it to them, I do not think there will be any objection. I believe the reason there is objection is because they do not understand the bill.

Mr. ELSTON. I think that Mr. Goslin has read the bill, and he desires to take the bill, would like to read it over and take it back to the council, and then tell us what they want. That should be done immediately, and we will expect when this March 1 hearing is held, to have some information on the subject.

Mr. GRAVES. I wish to tell Mr. Beaulieu that I have a copy of the bill and it is not my purpose to say anything with regard to the Minnesota Indians. Being from the State of Wisconsin, I do not see that it has anything to do with the Minnesota Indians.

Mr. ELSTON. I will tell you gentlemen, for these delegates here now, what we want to have, if you have any objections, specific objections, not general objections. Anybody can object generally. Anybody can find a little bit of fault with anything. We want you to bring specific instances here and we want to get right down to the bottom of the thing, and we want you gentlemen to come back here and say exactly what you want. We want you to consider this thing, and act like ordinary people, and we want to know what the majority think about this. When we get the facts we want to do the right thing, and we are going to do the fair thing, but somebody is going to be disappointed, if we are going to do anything at all. Now, we want you to come here and tell us just about as near as you can what ought to be done, and we will take it up from that standpoint.

Mr. GOSLIN. I just volunteered as an interpreter for the Indians, because they did not have anybody here from Minnesota, and that is why I offered my services in connection with this.

Mr. ELSTON. I think you have done very well, Mr. Goslin. What you ought to do is not to encourage these people to deal in small petty matters. Now, get at this thing and find out what it means, and come back here and tell us just exactly what it means. We have got a pretty fair idea of it to-day, and we will consider it pretty thoroughly.

(Whereupon, at 12.10 o'clock p. m., the committee adjourned.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Monday, March 8, 1920.

The committee on this day met.

The CHAIRMAN. The time set for this hearing has arrived. We are here to listen to the statements of the authorized representatives upon and to consider bill No. 12103, which is a measure formulated for the closing up of many of the matters of the Chippewas of Minnesota. A few weeks ago members of various interests in that section of the country came before this committee to be heard on these matters, and it was decided that, as there were so many viewpoints, it would be well for all of the interests to consult with each other with a view to coming before the committee at this time with a unified arrangement, if possible, so that there might be less conflict in the interests of all parties concerned. The chairman has been presented this morning with a proposed bill for closing up these matters, but having so recently received it he has barely had the time to read it, and believes that it would be just as well, under the

circumstances, to listen to those who are here in authority with regard to the issues of all of the different interests there. With that end in view we are now ready to open the hearing and to have those who desire to be heard qualify. It is my understanding that the authorized representative of the Chippewa band at the present time is Mr. Webster Ballinger. If I am correct in that and he qualifies he probably will be the first witness heard. If he is here we will hear him now. Mr. Ballinger, will you qualify yourself by stating who you are and whom you represent?

STATEMENT OF MR. WEBSTER BALLINGER.

MR. BALLINGER. Mr. Chairman, my name is Webster Ballinger. I am an attorney of this city. I am the authorized attorney of the Chippewa general council. I have not with me this morning the records of the general council as I left them with the Indian Bureau week before last; but in this connection and at this point I wish to ask the committee for leave to insert the authorization of the general council under which I appear here in this matter as well as in other matters for them.

The CHAIRMAN. Can you bring that with you at the next hearing?

MR. BALLINGER. I will bring it with me at the next hearing.

The CHAIRMAN. Now, Mr. Ballinger, how much time will you require for yourself in this matter, without considering interrogations which may enter into the discussion, with regard to such remarks as you may desire to make?

MR. BALLINGER. Mr. Chairman, this is a matter that covers a long series of years. Questions will arise in connection with this bill that will have a bearing upon other matters that will come before this committee at a later date; and it is the desire, my desire, and the desire of my clients, that we present to you the real questions which have been causing friction between the department and the Indians, and in order to do that, Mr. Chairman, it will probably consume two days.

MR. KELLY. Do you mean that it will require two days for your testimony alone, or two days for your argument and testimony?

MR. BALLINGER. Two days for my argument and testimony.

The CHAIRMAN. What do you mean by two days? It is the intention of the committee to hold these hearings from 10.30 o'clock to-day until 1 o'clock; then if it is agreeable to the members we will meet at 10 o'clock after that until the hearing is completed.

MR. BALLINGER. Then, Mr. Chairman, I think that I can conclude by to-morrow, by adjournment to-morrow. That is, my statement and all the testimony that will be offered for the general council, it will take until adjournment to-morrow.

The CHAIRMAN. That will probably be agreeable; but I will ask you, in the whole history of the thing to make your remarks just as concise as you can. What we are interested in is to correct the errors of the past, if there were errors, or if there were conditions that existed years ago and are modified by the current of events, and I would ask that you confine your argument as much as possible to what can be done to correct the situation as it exists to-day and not to detail too much of the history.

Mr. BALLINGER. Precisely, Mr. Chairman. It is my desire to present to you the wrongs that have long been inflicted upon the Chippewas and the remedy; and in order to do that it will be necessary to deal with sufficient of the facts to lay the basis.

The CHAIRMAN. All right, you can proceed.

Mr. BALLINGER. I want to make this request of the committee, that if during the course of my argument I go too much into detail I should be very glad to have a suggestion from the committee. It is my desire to shorten this as much as possible and simply to lay the basic facts before the committee so that you may have them for your guidance.

The CHAIRMAN. All right, now proceed.

Mr. BALLINGER. Mr. Chairman, in the inception of this hearing H. R. 6461 was designated as the bill. Thereafter upon the request of Congressman Ellsworth, H. R. 9921 was substituted. On that day or a day or two afterwards Congressman Ellsworth presented H. R. 12103, which is the bill the department considered in connection with the substitutes the department has submitted; and, in that connection, there are two separate bills submitted by the department, one a jurisdictional bill and one dealing with the administrative features, and I was going to ask to have those bills introduced so that they might be available. Now, Mr. Chairman, since our last meeting the general council and the Indian Bureau have made a very earnest effort to get together upon the proposed legislation. H. R. 12103 has been carefully scrutinized by the Indian Bureau. No jokers have been found, but in connection with the consideration of that bill some fundamental differences have arisen which I may briefly state.

The first one is as to the manner in which this corrective legislation shall be finally enacted. The general council insists that as this estate was created and this property put in trust in the hands of the United States under an express agreement that any changes or modifications of that agreement should be with the assent and approval of the Indians. They suggest that for two reasons: First, they believe that it is only fair to the Indians; and, second, they believe that legislation by Congress direct without the assent of the Indians might lay the Government of the United States liable for any claims that might arise out of it. It would at least leave open a serious legal question as to the power of Congress to deal with this estate in the exercise of its plenary power. Now, the Indian Bureau takes the position that Congress alone without the assent of the Indians has the absolute power to do with this estate as it sees fit. The Indians take issue with the department upon that question. Now, the second, and one of the most important questions deals with the Red Lake Reservation. The Red Lake Reservation is one of the remnants of the property that was dealt with under the agreement of 1889. That reservation stands intact to-day with the exception of a cession of 260,000 acres made in 1904. Upon that reservation the Indians are to-day residing in their old tribal condition.

Not an allotment has been made in 31 years, in absolute violation of the agreement of 1889, and the Indian Bureau insists that those Indians shall be continued in their present deplorable and pitiful condition, as I shall later describe. The general council, on the other hand, insists that those Indians should be given their allotment—

shall be put upon their feet and shall be given the opportunity to make men and women of themselves. Now, Mr. Chairman, and gentlemen of the committee, I will now deal with this question of title to the Red Lake Reservation, for that is one of the questions upon which the greatest difference of opinion has thus far existed. Mr. Meritt, so that we may have absolutely no difference of opinion, the Indian Bureau will concede, will it not, that in 1854 the Chippewa Tribe of Indians owned their property in common, and that under the treaty of 1854 came the great division between the Chippewas of Lake Superior and the Chippewas of the Mississippi, which now constitute the Chippewas of Minnesota? I pause, with the permission of the committee, to find out whether there is any difference there.

Mr. MERITT. I do not care to make any statement or answer any questions at this time or make any concessions on the argument of Mr. Ballinger. I believe, Mr. Chairman, that I could save a little time for the committee by simply making a short statement at the beginning of this argument.

The CHAIRMAN. Is that agreeable to Mr. Ballinger?

Mr. BALLINGER. Anything that will shorten the hearing is agreeable to me.

Mr. MERITT. Mr. Chairman, under date of January 16, 1920, we submitted a report to the chairman of this committee, inclosing a copy of the jurisdictional bill, which would enable the Chippewa Indians to go to the Court of Claims on any controverted questions. This bill is so broad that they can go into the Court of Claims and submit all their alleged claims against the Government. I believe it will be admitted by Mr. Ballinger that this jurisdictional bill is reasonably satisfactory to the Chippewa Indians.

The CHAIRMAN. Let me ask right there: Does Mr. Ballinger admit that that bill is reasonably satisfactory to the Indians?

Mr. BALLINGER. There are some changes to be made, Mr. Chairman.

The CHAIRMAN. Well, then, it is not reasonably satisfactory.

Mr. MERITT. There are a few proposed changes in the bill that I think we can get together on; and in order that they may appear in the record I will ask that this report and the bill be printed at this time.

The CHAIRMAN. The jurisdictional bill?

Mr. MERITT. Yes, sir.

The CHAIRMAN. If there is no objection the report to which Mr. Meritt refers may be printed at this time.

(The report of the Indian Bureau to the chairman of the Committee on Indian Affairs under date of January 16, 1920, follows:)

DEPARTMENT OF THE INTERIOR,
Washington, January 16, 1920.

MY DEAR MR. SNYDER: I have the honor to acknowledge the receipt of your letter of October 16, 1919, submitting for an expression of my views a copy of H. R. 9924, a bill to aid in winding up the affairs of the Chippewa Indians of Minnesota.

That portion of the bill which relates to the closing of the affairs of the Chippewa Indians of Minnesota is being considered and will be the subject of a later communication. I see no objection, however, at this time to conferring jurisdiction on the Court of Claims, under reasonable and fair restrictions and limitations, to hear, determine, and render judgment on such claims as the Indians have against the United States.

I have accordingly prepared and transmit herewith a draft of a proper jurisdictional bill, conferring jurisdiction on the Court of Claims, with right of appeal to the

Supreme Court of the United States, to hear and determine any and all claims which the Indians may have against the Government.

I see no objection to the enactment of the legislation herein proposed, and recommend that the draft of the bill submitted be substituted for H. R. 9924.

Cordially, yours,

FRANKLIN K. LANE, *Secretary*.

HON. HOMER P. SNYDER,
Chairman Committee on Indian Affairs,
House of Representatives.

A BILL Authorizing the Chippewa Indians of Minnesota to submit claims to the Court of Claims, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all claims of whatsoever nature which the Chippewa Indians of Minnesota may have against the United States, which have not heretofore been determined by a court of competent jurisdiction, may be submitted to the Court of Claims for determination of the amount, if any, due said tribe from the United States under any treaty or agreement, or for the misappropriation of any of the funds of said tribe, or for the failure of the United States to lawfully administer the property of said Indians held by it in trust; and jurisdiction is hereby conferred upon the said Court of Claims, with the right of appeal to the Supreme Court of the United States by either party, to hear and determine all legal and equitable claims which said tribe, or any band thereof, may have against the United States, it being the intention of this act to allow the said Court of Claims unrestricted latitude in adjusting and determining the claims submitted hereunder, so that the rights, legal and equitable, both of the United States and said Indians, or any band thereof, may be fully considered and determined, and to render judgment thereon.

SEC. 2. That if any claim or claims be submitted to said court, it shall settle the rights therein, of each and all the parties thereto, notwithstanding lapse of time or statutes of limitation, and any payment which may have been lawfully made upon any claim so submitted shall not be pleaded as an estoppel, but may be pleaded as a setoff in such suit or suits, and the United States shall be allowed credit for any sum or sums, including gratuities, heretofore paid or expended for the benefit of said tribe or any band thereof. The claim or claims of the tribe, or band or bands thereof, may be presented separately or jointly by petition or petitions, subject, however, to amendment; suit or suits to be filed within three years after the passage of this act; and such suit or suits shall make the petitioners party plaintiff and the United States party defendant, and any band or bands of said tribe may be joined therein as the court may order. Such petition or petitions shall set forth all the facts on which the claims for recovery are based, and shall be signed by the attorney or attorneys employed, as herein authorized, and no other verification shall be necessary. Letters, papers, documents, and public records, or certified copies thereof, bearing upon the claims presented, may be used in evidence, and the departments of the Government shall give the attorney or attorneys of said tribe, or bands thereof, access to any such letters, papers, documents, or public records for the purpose of making copies thereof, as such attorney or attorneys may deem necessary.

SEC. 3. That if it be determined by the Court of Claims in the suit or suits herein authorized that the United States Government has wrongfully appropriated or disposed of any lands belonging to the said tribe of Chippewa Indians, or any band thereof, damages therefor shall be confined to the value of the lands and timber thereon at the time of such appropriation or disposal, together with interest thereon at 5 per centum per annum from the date thereof, and the decree of the court with reference thereto shall annul and cancel all claim, right, and title of the said Chippewa Tribe, or any band thereof, in and to such lands and timber, and settle all damages for any wrongs or injuries, if any, committed by the Government of the United States with reference thereto.

SEC. 4. That upon the final determination of such suit or suits the Court of Claims shall fix and determine such fees as it shall deem fair and reasonable for the services rendered and moneys expended in the prosecution of such suit or suits, to be paid the attorney or attorneys employed therein by said tribe or bands of Indians under contract or contracts made and approved as provided by existing law; but in no event shall the fee or fees and expenses decreed by said Court of Claims be in excess of 10 per centum of the amount recovered. The fees and expenses decreed by the court to the attorney or attorneys of record shall be paid out of any sum or sums recovered in such suit or suits; and the proceeds of all amounts recovered, after the pay-

ment of fees, charges, and expenses, shall be deposited in the Treasury of the United States in the principal fund of the Chippewa Indians of Minnesota.

SEC. 5. That jurisdiction is hereby conferred upon the Court of Claims, with the right of appeal to the Supreme Court of the United States by either party, to hear, determine, and enter judgment against the United States or the Red Lake Band of Chippewas, for any amount or amounts that may be found due the Chippewa Indians of Minnesota (except the Red Lake Band), arising under or growing out of any violations of the agreements negotiated under the provisions of the act of January 14, 1889 (Twenty-fifth Statutes at Large, page 642), which injuriously affect the legal rights of the complainant bands to the advantage of the said Red Lake Band. Suit shall be commenced by a single petition filed by the complainant bands in said court within two years after the passage of this act, which shall set forth all the facts on which the complainants base their right to recovery. Such petition may be signed by the attorney or attorneys legally employed by the complainants to represent them in said suit, and no other verification shall be necessary.

In case of recovery the Court of Claims shall render judgment against the United States, or the Red Lake Band, as shall be deemed legal and just, based upon the facts established by the evidence. Letters, papers, documents, and public records, bearing on the matter in suit, or certified copies thereof, may be used in evidence, and the departments of the Government shall give the attorney or attorneys of the respective parties access to all such letters, papers, documents, and public records, for the purpose of making copies thereof, as may be deemed necessary by such attorneys. The United States and the Red Lake Band shall be represented by the Attorney General of the United States: *Provided*, That the Red Lake Band, if it shall elect so to do at a general council of the band, may employ counsel, under existing law, to represent it; and the court may determine the fee or compensation to be paid such counsel, which shall not exceed \$5,000, in addition to the expenses incurred, in the event the Red Lake Band is unsuccessful in its defense; and in the event the Red Lake Band is successful in its defense, such fee, including costs and expenses, shall not exceed 10 per centum of the amount claimed by the complainant bands, payment to be made from any funds standing to the credit of the band at the time of the filing of the petition in such suit.

The amount recovered, if any, shall be deposited in the principal fund of the Chippewa Indians of Minnesota, arising out of the provisions of the act of January 14, 1889 (Twenty-fifth Statutes at Large, page 642). Upon the final determination of such suit the Court of Claims shall also determine the fee, and allowances for expenses, as it shall find reasonable and just, to be paid the attorney or attorneys employed by the complainant bands, under contract or contracts made and approved as provided by existing law; but in no event shall the fee and expenses decreed by the court be in excess of 10 per centum of the amount recovered; and the fees and expenses decreed by the court to the attorney or attorneys of record for the complainant bands shall be paid out of any sum or sums recovered in said suit.

SEC. 6. That the Attorney General of the United States is hereby authorized and directed to institute a suit in the Supreme Court of the United States against the State of Minnesota for the value of all land and timber thereon, ceded to the United States, in trust, under the provisions of the act of January 14, 1889 (Twenty-fifth Statutes at Large, page 642), which were subsequently patented to the State of Minnesota under the provisions of the swamp land act of March 12, 1860 (Twelfth Statutes at Large, page 3), which have been disposed of by said State; and for the cancellation of all patents issued to the State of Minnesota covering any such land which has not been disposed of by said State, and for the annulment of all its claim, right, title, and interest in and to such lands as have been listed or certified as swamp land in the interest or on behalf of Said State.

Any moneys recovered from said State shall be deposited in the principal fund of the Chippewa Indians of Minnesota standing to their credit in the Treasury of the United States, and any land recovered or the title to which has been decreed adversely to the claim of the State shall be disposed of under rules and regulations to be prescribed by the Secretary of the Interior, and the proceeds derived from the sale of such lands shall similarly be deposited in the Treasury of the United States in the principal fund of said Chippewa Indians: *Provided*, That the Chippewa Indians of Minnesota, if they shall elect so to do at a general council of the several bands, employ an attorney or attorneys, under existing law, subject to the sanction and approval of the Commissioner of Indian Affairs and the Secretary of the Interior, to assist the Attorney General in the preparation and prosecution of such suit, the compensation of the attorney or attorneys so employed to be fixed and determined by the Attorney General, not to exceed ten per centum of the amount recovered, to be paid out of any funds standing to the credit of the Chippewa Indians of Minnesota. Letters, papers,

documents, and public records, or certified copies thereof, may be used in evidence, and the departments of the Government shall accord the Attorney General or the attorney or attorneys of said Indians access to such letters, papers, documents, and public records as may be deemed necessary by such attorneys.

The CHAIRMAN. Do you want this bill printed, too, at this time?

Mr. MERITT. H. R. 12103, introduced by Mr. Ellsworth in the House of Representatives on January 27, 1920, was referred to the department for a report and recommendation. We went over this bill with a great deal of care in the Indian Bureau. There were conferences among the employees of the Indian Bureau, and we also held conferences with the different factions of the Chippewa Indians. We held conferences with Mr. Ballinger and the representatives of the General Council, and also with Mr. Graves, who is here opposing the General Council, and also with Mr. Henderson, who is the attorney of the Red Lake Indians. We have prepared a report to the chairman of the committee, which we believe covers the essential points contained in H. R. 12103, and will furnish all the legislation that is necessary to meet the needs of the Chippewa Indians. In order that the committee may have the benefit of this report I will ask that it be printed in the record at this time, together with the substitute bill which has been prepared by the department.

The CHAIRMAN. Unless there is objection, it is so ordered.

(The said report follows:)

DEPARTMENT OF THE INTERIOR,
Washington, March 8, 1920.

DEAR MR. SNYDER: Further reference is made to your letter of January 20, 1920, submitting for report by this department a copy of H. R. 12103, "A bill to aid in winding up the affairs of the Chippewa Indians of Minnesota."

I have carefully read the bill, which, in the main, meets my approval. However, it contains many provisions which require amendment in order that these wards of the Government, now in a transitional period, may be properly guarded and the protection of the United States thrown around them in closing up their tribal affairs.

In view of the length of the bill and the great number of proposed amendments thereto, I have caused it to be rewritten with the desired changes therein and inclose the new draft.

On January 16, 1920, we sent you a substitute bill covering the jurisdictional part of H. R. 9924, which is substantially identical with sections 6, 7, 8, and 9 of the present bill. These sections have accordingly been omitted in the substitute draft transmitted herewith, and it is suggested that the jurisdictional measure be substituted for said omitted sections, as it is believed that any measure conferring jurisdiction on the Court of Claims should be dissociated from merely administrative matters.

It is recommended that the substitute draft for said H. R. 12103 receive your favorable consideration.

Cordially, yours,

ALEXANDER T. VOGELSANG,
Acting Secretary.

HON. HOMER P. SNYDER,
Chairman Committee on Indian Affairs,
House of Representatives.

(The said substitute bill follows:)

A BILL For the preparation of additional rolls, allotment of lands, disposition of the lands and funds of the Chippewa Indians of Minnesota, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission of three members, one of whom shall be appointed by the President of the United States, one by the Secretary of the Interior, and one by the General Council of the Chippewa Indians of Minnesota, shall be appointed within thirty days after this Act shall become effective. The members of said commission so appointed shall, before entering upon the discharge of their duties, take an oath to support the Constitution of the United States and to faithfully

discharge the duties of their office. Said commission shall select a chairman and the members shall each receive compensation at the rate of \$10 per day and their actual and necessary expenses, when actually engaged in the performance of their official duties, said salaries and all expenses to be paid upon itemized accounts approved by said commission. In the performance of the work herein authorized said commission is given full power to employ all clerical and other help necessary for the proper conduct of the work, the power to compel the attendance of all witnesses, the production of all papers, to administer oaths, and to obtain all facts necessary to the proper performance of its duties. Said commission shall immediately proceed to add to the existing allotment rolls of the Chippewa Indians of Minnesota, except the rolls of the Indians residing on and belonging to the Red Lake Reservation and not allotted, the name of any person in being at the time said roll is made, and lawfully entitled to an allotment of land under the Act approved January 14, 1889 (Twenty-fifth Statutes at Large, page 642), and who had not theretofore been enrolled and allotted, said rolls to be completed within one year from the date the commission is organized. Upon the completion of said rolls the Secretary of the Interior shall immediately proceed and allot, in conformity with this Act and the Act of February 8, 1887 (Twenty-fourth Statutes at Large, page 388), to every person so enrolled and then in being who had not theretofore received an allotment, out of any reserved or undisposed of ceded lands to which no valid claim has been initiated, one hundred and sixty acres of land, in conformity with legal subdivisions, eighty acres of which shall be chiefly valuable for agriculture, to be selected by the allottee, if an adult, and if a minor by the father, mother, or guardian having charge of his or her estate, preference being given in the order named, and if the enrollee be incompetent or absent, said selection shall be made by some suitable person akin to him or her; that each person so entitled to an allotment shall have the right where it is possible to take his or her allotment on land, the improvements on which belong to him or her, priority of selection to be accorded in the order of actual prior settlement; that so far as practicable the lands allotted shall be contiguous. Selection of allotments shall be made within sixty days after such enrollee, or his or her representative, shall receive notice of his or her right to select an allotment, and should any such enrollee or his or her representative fail or refuse to make such selection within said time then the Secretary of the Interior shall proceed and arbitrarily make an allotment of land in the name of such enrollee, due care to be taken that proper allotments are made to all persons entitled thereto: *Provided*, That every such allotment shall be and remain nontaxable so long as it remains the property of the allottee, not exceeding twenty-five years, and every such allotment made to or in the name of any person whose name appears upon the rolls of "incompetent Indians," hereinafter provided for, shall remain inalienable so long as such person shall occupy the status of an incompetent Indian and the land shall remain the property of the allottee.

Said commission is also directed to prepare a roll, to be known as the "Roll of incompetent Minnesota Chippewa Indians," upon which shall be inscribed the name, age, sex, allotment number, and description of the allotments of all minors and incompetent adult persons of more than one-half Indian blood allotted or to be hereunder allotted off the White Earth Reservation, except the Chippewas residing on and belonging to the Red Lake Reservation and of all minors and incompetent full bloods allotted or to be allotted on the White Earth Reservation. Within thirty days after the completion of this roll the original shall be filed in the office of the Bureau of Indian Affairs, and one copy, duly certified to by said commission, shall be filed in each and every agency maintained among the Chippewas in Minnesota and one in each and every county recording office in the separate counties in which any of such Indians have been allotted, which rolls shall be open to inspection at all times during usual office hours. Said commission shall also prepare two other rolls, upon one of which shall be inscribed the name, age, sex, and residence of all unallotted adult persons living at the date of the approval of this Act who are entitled to share in the distribution of the tribal funds arising under section 7 of the said Act of January 14, 1889, and who are of one-half or less Indian blood; also all persons of more than one-half Indian blood who may be found competent to handle their shares of such funds. Upon the second roll shall be inscribed the name, age, sex, and residence of every unallotted minor and adult person then in being of more than one-half Indian blood who is incompetent to handle his or her share of said fund.

Within six months after the completion of said rolls the Secretary of the Interior shall pay, or cause to be paid, to every such adult Minnesota Chippewa Indian whose name does not appear upon said rolls as an incompetent all funds then standing to his or her individual credit; and the lands allotted or to be allotted under this act or prior acts to any such Indian person shall by operation of this act pass in fee simple title to the allottee without any further conveyance whatsoever. All minors of one-half Indian blood or less whose names appear upon said roll of incompetents, either

of whose parents has not been enrolled thereon, shall, upon becoming of legal age, be possessed of all personal and real property held in trust for them in their name, in like manner and to the same extent as enrolled persons whose names do not appear on said rolls of incompetents, and, upon the appointment by a court of competent jurisdiction and the qualification of a legal guardian of any such minor child all personal property standing to such child's credit shall be forthwith delivered over to such guardian: *Provided*, That the Secretary of the Interior shall continue to have authority, under existing law, upon proper evidence, to adjudge any person whose name appears on said rolls of incompetents to be competent, and upon such adjudication said person shall be possessed of all property held in trust in his or her name by the United States, or by its officers and agents, free of all restrictions: *Provided further*, That patents in fee shall be issued by the Secretary to all such persons upon their becoming of lawful age or upon their being adjudged competent by the said Secretary: *And provided further*, That all conveyances of allotted lands, the restrictions upon which as to sale and alienation are removed by this act in order to be valid shall hereafter be acknowledged before a United States commissioner or a judge of a court of record in the State of Minnesota or in the State in which the person resides: *And provided further*, That the rolls herein authorized to be made shall, for the purposes hereof, when finally approved, be conclusive as to the rights, age, and status of every Minnesota Chippewa Indian.

Upon the completion of all of said rolls the Secretary of the Interior shall withdraw from the principal fund of the Chippewa Indians of Minnesota a sufficient amount to pay therefrom to every person entitled to share in the distribution thereof, as shown by said rolls and as provided by section 7 of the act of January 14, 1889, the sum of \$300, and shall thereafter, whenever said principal fund may, from the sale of timber, lands, or other property, or from moneys found to be due to said tribe on claims against the United States, if any, be sufficient to enable the said Secretary to do so, aggregate a like amount from said principal fund for like purposes; and when all the tribal property has been sold, and all claims of said Indians against the United States have been determined, collected, and deposited in the trust fund, the total amount thereof shall be divided share and share alike among the persons entitled to share therein, in accordance with the terms of section 7 of the act of January 14, 1889: *Provided*, That before any payment of such segregated funds is made, the Secretary shall cause the then existing rolls of those entitled to participate therein to be corrected, so that the names of all persons thereon not then in being shall be stricken therefrom and the names of all new-born children entitled to share therein, in being on January 1 of the year in which said segregation shall occur, whose births have been reported to the department, shall be added thereto: *Provided further*, That all adult persons whose names do not appear upon said incompetent rolls shall receive their respective shares of said payments in cash. The shares to which those persons whose names appear on said incompetent rolls, including minors, are entitled shall be transferred on the books of the Treasury of the United States to a fund to be designated and known as "The Chippewa in Minnesota incompetent fund," but segregated to their individual credit on the books of the Indian Office, and shall continue to draw interest, as now authorized by law, at the rate of 5 per centum per annum, and the interest that may accrue thereon shall be paid annually to the members entitled thereto, except in cases of minors, in which cases the interest shall be paid annually to the parent or guardian until the child for whom the interest is so paid arrives at legal age under the laws of Minnesota. In case of minors whose parents have died the interest shall be paid to the legal guardian: *And provided further*, That the amount placed to the credit of each minor whose name appears upon the roll of incompetents, shall, upon his attaining his or her majority, be paid to such member in ten equal payments, one payment each year, and at the expiration of the tenth year the total sum remaining shall be paid to such person: *And provided further*, That if the Secretary of the Interior deem it advisable, he may pay to any such person the full amount of the principal and interest to his or her credit or any part thereof in excess of the payments hereinbefore authorized: *And provided further*, That the amounts placed to the credit of minor children may be paid to their parent or legal guardian for their proper support, in twenty equal payments, one payment each year, including interest, and at the expiration of the twenty-year period the total sum remaining shall be paid to the enrollee; and should any such minor child, whose parent or parents are not enrolled as incompetents arrive at legal age before said payments shall have been fully completed, he or she shall be entitled to receive the full amount then standing to his or her credit and to receive any further payments thereafter without restriction or limitation: *And provided further*, That if the Commissioner of Indian Affairs becomes satisfied that payments made under the provisions of this act to any parent or guardian of moneys belonging to any minor are being misused or squandered, he may withhold further payments.

SEC. 2. That as compensation for losses sustained by the Chippewa Indians of Minnesota for the failure to sell and dispose of the lands ceded to the United States in trust under the provisions of the act of January 14, 1889, and subsequently included in forest and other reserves contrary to the intent of said act, the Secretary of the Interior is hereby directed to proceed and dispose of all timber on any such lands remaining undisposed of which were classified as "pine lands" under the said act and the amendatory act of June 27, 1902 (Thirty-second Statutes at Large, page 400), including the timber on any and all of said lands and within the limits of any Indian reservation except the Red Lake Reservation that has since January 14, 1889, been included in any forest or other reserve, said timber to be sold under rules and regulations to be prescribed by the Secretary of the Interior, which shall conform so far as practicable to the provisions of said act of June 27, 1902: *Provided*, That nothing herein contained shall invalidate or impair any existing valid contract for the cutting or sale of any of said timber: *Provided further*, That where any such contract shall include the timber upon any land allotted under this act the proceeds of the timber cut from any such allotted land after the allotment is made shall be paid to the allottee under the same conditions as other payments are made under this act.

The Secretary of the Interior is further directed to have all lands heretofore ceded to the United States under said act of January 14, 1889, and not included in any reserve and not disposed of, including all lands that may be recovered from the State of Minnesota, or from other sources, appraised at their true value, which shall include the timber thereon, by competent appraisers, at least one-third of whom shall be designated by the General Council of the Chippewa Indians of Minnesota and appointed by the Secretary of the Interior, and upon the completion of the allotments herein authorized all of said land so remaining unallotted and undisposed of, or to which no valid right has been initiated, shall be put up and sold at public auction to the highest bidder, at not less than the appraised value, in tracts not exceeding six hundred and forty acres each, said tracts to conform to legal subdivisions and to be sold upon the following terms and conditions: One-fifth of the purchase price to be paid at the time of sale, and the remainder to be paid in cash within ninety days thereafter, or at the option of the purchaser to be paid in four annual installments, which shall bear interest at the rate of 6 per centum per annum, payable annually. Should any purchaser of such lands be in default in any payment thereon the Secretary of the Interior may, upon a proper showing of good faith on the part of the purchaser, extend the time in which the payment may be made not exceeding one year, and all land so sold in which the purchaser shall be and remain in default in any payment for a period of one year after such payment shall have become due or after one year from the expiration of the extension granted by the Secretary the land shall revert to the United States in trust for said Indians, and any moneys paid thereon shall be forfeited to the Indians.

All lands not sold and disposed of at public auction when offered for sale, and all lands that may revert to the United States in trust by default on the part of the purchaser in the payment of the purchase price as hereinbefore provided, shall remain open to purchase at private sale at the appraised value until the expiration of the time in which all lands sold shall have been fully paid for, and the said Secretary shall then proceed to dispose of all of the remaining lands at public auction to the highest bidder for cash in tracts not exceeding six hundred and forty acres.

The Secretary of the Interior shall issue to any purchaser of said lands, upon full payment being made therefor, a patent as in other conveyances of public lands. All funds derived from the sale of said lands and other property shall be deposited in the Treasury of the United States to the credit of the Chippewa Indians of Minnesota in their principal fund: *And provided further*, That nothing herein contained shall impair or invalidate any valid existing homestead entry.

SEC. 3. That the Secretary of the Interior is hereby authorized to convey to the State of Minnesota, to be used as a part of the public-school system of said State, upon such terms as may be agreed upon, any buildings and any land or part thereof now reserved or used for school purposes for said Indians. So much of the one-fourth of the annual interest accruing on the said principal fund under section 7 of the act of January 14, 1889 (Twenty-fifth Statutes at Large, page 642), may be used by the said Secretary as is necessary to provide proper facilities for any child or children of said Indians whose parent or parents now reside, or any hereafter reside, upon either of their allotments, and where their allotment home is too far from the nearest public school to permit the children to regularly attend the same, or for any orphan minor Chippewa Indian child who is without the proper school facilities: *Provided*, That where any portion of said interest money is expended for the education of children in schools the amount so allotted to any one child shall not exceed \$175

in any one year: *Provided further*, That if by reason of the segregations from the principal fund herein authorized the one-fourth of the interest annually accruing thereon shall be insufficient in any one year to defray the school expenses of said children, then the Secretary is authorized to withdraw and use a sufficient amount of said principal fund, which, together with the one-fourth of the annual, interest money, will render available for school purposes in any one year not exceeding the sum of \$75,000: *And provided further*, That the Secretary shall annually, and at the convening of each regular session, transmit to Congress a detailed statement giving the name, age, and location of the residence of the parent or parents or guardian of every child whose school expenses are being paid out of said fund: *And provided further*, That the Secretary may, with the approval of the General Council of the Chippewa Indians of Minnesota, use not to exceed \$75,000 of the trust funds of the Chippewa Indians in aiding the State of Minnesota in establishing and maintaining public schools at places where Chippewa Indian children are now without proper public-school facilities.

SEC. 4. That the Secretary of the Interior be, and he hereby is, authorized in his discretion to establish town sites on the Red Lake and White Earth Reservations in the State of Minnesota and upon any lands ceded under the act of January 14, 1889 (Twenty-fifth Statutes at Large, page 642), which have not been otherwise disposed of, at places where town sites are needed, and to set aside sufficient land, not exceeding three hundred and twenty acres, for each town site so established. That upon the establishment of any such town site the Secretary shall immediately cause the lands embraced therein to be surveyed and platted into suitable lots, streets, and alleys, and to dedicate said streets and alleys and such lots and parcels of land as may be necessary for public uses, and to cause the lots not so dedicated to be appraised at their true value, exclusive of improvements thereon, by a board of three persons, two of whom shall be appointed by the Secretary of the Interior and one of whom shall be appointed by the General Council of the Chippewa Indians, who shall receive compensation, to be fixed by the Secretary of the Interior, at not exceeding \$10 per day and actual expenses for the times they are actually engaged in the work. When said lots are so surveyed, platted, and appraised the President shall issue patents in fee for any such lot upon the final payment of the appraised value, on such terms as may be fixed by the Secretary of the Interior for the payment of all lots or parcels of land disposed of under this act, and the proceeds of such sales shall be placed to the credit of the Chippewa Indians of Minnesota in their permanent fund in the Treasury of the United States.

Those persons owning permanent improvements at the date of the approval of this Act on any of said lots shall have the preference right for six months from the date such lots shall be offered for sale within which to purchase lots upon which their improvements are situated, but no lots shall be sold for less than the appraised valuation. If any person entitled thereto fails to take advantage of this provision, the Secretary shall cause the improvements on the unsold lots to be appraised, and any purchaser, on the payment or tender to the owner of the appraised value of the improvements, shall have the preference right for six months from the date of such payment to purchase such unsold lot or lots at their appraised value. The unimproved lots shall be open to purchase by any person or persons at their appraised value for a period of one year. After the expiration of one year from and after the date of the approval of the plat of any such town site the Secretary shall offer any lots remaining unsold for sale at public auction, and the same shall be disposed of to the highest bidder: *Provided further*, That the patents to be issued shall contain a condition that no malt, spirituous, or vinous liquors shall be kept or disposed of on the premises conveyed, and that any violation of this condition, either by the patentee or any person claiming rights under him, shall render the conveyance void and cause the premises to revert to the Chippewa Indians of Minnesota, to be disposed of as the said Secretary may direct: *And provided further*, That at least four squares of each such town site shall be set aside and reserved for public-school purposes: *And provided further*, That the said Secretary may terminate the said commission whenever in his judgment the work does not justify a continuance thereof, in which event the remaining work shall be done under his direction.

SEC. 5. That it being claimed by the Chippewa Indians of Minnesota that mistakes were made in the surveys of lands ceded by them to the United States under certain treaties and agreements, to their loss and injury, and in order that any such mistakes that may have been made may be corrected, two competent surveyors shall be appointed, one by the Secretary of the Interior and the other by the General Council of the Chippewa Indians of Minnesota, who shall receive such compensation as the Secretary may determine just and proper, to make such resurveys or new and addi-

tional surveys as may be necessary to correctly determine the rights of the United States and the Chippewa Indians of Minnesota in and to any lands which may have been taken or acquired by the United States under any surveys heretofore made fixing the boundaries of any lands ceded under any treaty or agreement with said Indians or any band thereof. Said surveyors shall submit a report, or reports, in writing, to the Secretary of the Interior showing the result of their work, and if any errors are found in the surveys previously made which have resulted in loss to either the Chippewa Indians of Minnesota, or any band thereof, or to the United States, they shall so state in their report, or reports, giving the acreage thereof. The report, or reports, of the surveyors shall be transmitted by the Secretary of the Interior to the Court of Claims for use by said court in determining any of the claims of said Indians against the United States. Said surveyors, with the approval of the Secretary of the Interior, are authorized to employ all necessary help in the proper performance of their duties.

SEC. 6. That exclusive jurisdiction is hereby conferred upon the probate courts of the State of Minnesota over all estates of deceased adult mixed-blood Indians allotted or who may hereafter be allotted on the White Earth Reservation in Minnesota; and over all estates of all members of the Chippewa Tribe of Indians in Minnesota allotted or to be allotted off the White Earth Reservation who were or may be at the time of their death within the unrestricted class.

SEC. 7. That nothing in this Act with reference to the sale and disposition of timber or land or other property shall, except as herein otherwise expressly provided, apply to the Red Lake Reservation, Minnesota.

SEC. 8. That the Secretary of the Interior be, and he hereby is, authorized to make and issue all necessary regulations in strict conformity with the provisions of this Act to carry the same into effect.

SEC. 9. That all laws and parts of laws in conflict with this Act are hereby repealed; and the Secretary of the Interior is hereby authorized to withdraw and to use the sum of \$50,000, or so much thereof as may be necessary, from the principal fund of the Chippewa Indians of Minnesota, to defray the administrative expenses in carrying out the provisions of this Act.

Mr. MERITT. The essential and basic legislation relating to the Chippewa matters is found in the act of January 14, 1889 (25 Stats. 642). This is the principal legislation relating to the Chippewa affairs, and it is very important in connection with this hearing. I will ask that this bill be included in the record.

Mr. KELLY. You mean this act?

Mr. MERITT. This act; yes, sir.

The CHAIRMAN. If there is no objection, it is so ordered.

(The said act follows:)

CHAPTER 24.—AN ACT FOR THE RELIEF AND CIVILIZATION OF THE CHIPPEWA INDIANS IN THE STATE OF MINNESOTA.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized and directed, within sixty days after the passage of this act, to designate and appoint three commissioners, one of whom shall be a citizen of Minnesota, whose duty it shall be, as soon as practicable after their appointment, to negotiate with all the different bands or tribes of Chippewa Indians in the State of Minnesota for the complete cession and relinquishment in writing of all their title and interest in and to all the reservations of said Indians in the State of Minnesota, except the White Earth and Red Lake Reservations, and to all and so much of these two reservations as in the judgment of said commission is not required to make and fill the allotments required by this and existing acts, and shall not have been reserved by the commissioners for said purposes, for the purposes and upon the terms hereinafter stated; and such cession and relinquishment shall be deemed sufficient as to each of said several reservations, except as to the Red Lake Reservation, if made and assented to in writing by two-thirds of the male adults over eighteen years of age of the band or tribe of Indians occupying and belonging to such reservations; and as to the Red Lake Reservation the cession and relinquishment shall be deemed sufficient if made and assented to in like manner by two-thirds of the male adults of all the Chippewa Indians in Minnesota: and provided that all agreements therefor shall be approved by the President of the United States before taking effect: *Provided further,* That in any case where an allotment in sev-

eralty has heretofore been made to any Indian of land upon any of said reservations, he shall not be deprived thereof or disturbed therein except by his own individual consent separately and previously given, in such form and manner as may be prescribed by the Secretary of the Interior. And for the purpose of ascertaining whether the proper number of Indians yield and give their assent as aforesaid, and for the purpose of making the allotments and payments hereinafter mentioned, the said commissioners shall, while engaged in securing such cession and relinquishment as aforesaid and before completing the same, make an accurate census of each tribe or band, classifying them into male and female adults, and male and female minors; and the minors into those who are orphans and those who are not orphans, giving the exact numbers of each class, and making such census in duplicate lists, one of which shall be filed with the Secretary of the Interior and the other with the official head of the band or tribe; and the acceptance and approval of such cession and relinquishment by the President of the United States shall be deemed full and ample proof of the assent of the Indians, and shall operate as a complete extinguishment of the Indian title without any other or further act or ceremony whatsoever for the purposes and upon the terms in this act provided.

SEC. 2. That the said commissioners shall, before entering upon the discharge of their duties, each give a bond to the United States in the sum of ten thousand dollars, with sufficient sureties, to be approved by the Secretary of the Interior, and conditioned for the faithful discharge of their duties under this act, and they shall also each take an oath to support the Constitution of the United States and to faithfully discharge the duties of their office, which bonds and oaths shall be filed with the Secretary of the Interior. Said commissioners shall be entitled to a compensation of ten dollars per day for each day actually employed in the discharge of their duties, and for their actual traveling expenses and board, not exceeding three dollars per day. Said commissioners shall also be authorized to employ a competent interpreter while engaged in the performance of their duties, at a compensation and allowance to be fixed by them, not in excess of that allowed to each of them under this act.

SEC. 3. That as soon as the census has been taken, and the cession and relinquishment has been obtained, approved, and ratified, as specified in section one of this act, all of said Chippewa Indians in the State of Minnesota, except those on the Red Lake Reservation, shall, under the direction of said commissioners, be removed to and take up their residence on the White Earth Reservation, and thereupon there shall, as soon as practicable, under the direction of said commissioners, be allotted lands in severalty to the Red Lake Indians on Red Lake Reservation, and to all the other of said Indians on White Earth Reservation, in conformity with the act of February eighth, eighteen hundred and eighty-seven, entitled "An act for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes"; and all allotments heretofore made to any of said Indians on the White Earth Reservation are hereby ratified and confirmed with the like tenure and condition prescribed for all allotments under this act: *Provided, however*, That the amount heretofore allotted to any Indian on White Earth Reservation shall be deducted from the amount of allotment to which he or she is entitled under this act: *Provided further*, That any of the Indians residing on any of said reservations may, in his discretion, take his allotment in severalty under this act on the reservation where he lives at the time of the removal herein provided for is effected, instead of being removed to and taking such allotment on White Earth Reservation.

SEC. 4. That as soon as the cession and relinquishment of said Indian title has been obtained and approved as aforesaid, it shall be the duty of the Commissioners of the General Land Office to cause the lands so ceded to the United States to be surveyed in the manner provided by law for the survey of public lands, and as soon as practicable after such survey has been made, and the report, field notes, and plats thereof filed in the General Land Office, and duly approved by the Commissioner thereof, the said Secretary of the Interior, upon notice of the completion of such surveys, shall appoint a sufficient number of competent and experienced examiners, in order that the work may be done within a reasonable time, who shall go upon said lands thus surveyed and personally make a careful, complete, and thorough examination of the same by forty-acre lots, for the purpose of ascertaining on which lots or tracts there is standing or growing pine timber, which tracts on which pine timber is standing or growing for the purposes of this act shall be termed "pine lands," the minutes of such examination to be at the time entered in books provided for that purpose, showing with particularity the amount and quality of all pine timber standing or growing on any lot or tract, the amount of such pine timber to be estimated by feet in the manner usual in estimating such timber, which estimates and reports of all such examinations shall be filed with the Commissioner of the General Land Office

as a part of the permanent records thereof, and thereupon that officer shall cause to be made a list of all such pine lands, describing each forty-acre lot or tract thereof separately, and opposite each such description he shall place the actual cash value of the same, according to his best judgment and information, but such valuation shall not be at a rate of less than three dollars per thousand feet, board measure, of the pine timber thereon, and thereupon such lists of lands so appraised shall be transmitted to the Secretary of the Interior for approval, modification, or rejection, as he may deem proper. If the appraisals are rejected as a whole, then the Secretary of the Interior shall substitute a new appraisal and the same or original list as approved or modified shall be filed with the Commissioner of the General Land Office as the appraisal of said lands, and as constituting the minimum price for which said lands may be sold, as hereinafter provided, but in no event shall said pine lands be appraised at a rate of less than three dollars per thousand feet board measure of the pine timber thereon. Duplicate lists of said lands as appraised, together with copies of the field notes, surveys, and minutes of examinations shall be filed and kept in the office of the register of the land office of the district within which said lands may be situated, and copies of said lists with the appraisals shall be furnished to any person desiring the same upon application to the Commissioner of the General Land Office or to the register of said local land office.

The compensation of the examiners so provided for in this section shall be fixed by the Secretary of the Interior, but in no event shall exceed the sum of six dollars per day for each person so employed, including all expenses.

All other lands acquired from the said Indians on said reservations, other than pine lands, are, for the purposes of this act, termed "agricultural lands."

Sec. 5. That after the survey, examination, and appraisals of said pine lands has been fully completed they shall be proclaimed as in market and offered for sale in the following manner: The Commissioner of the General Land Office shall cause notices to be inserted once in each week for four successive weeks in one newspaper of general circulation published in Minneapolis, Saint Paul, Duluth, and Crookston, Minnesota; Chicago, Illinois; Milwaukee, Wisconsin; Detroit, Michigan; Philadelphia and Williamsport, Pennsylvania; and Boston, Massachusetts, of the sale of said lands at public auction to the highest bidder for cash at the local land office of the district within which said lands are located, said notice to state the time and place and terms of such sale. At such sale said lands shall be offered in forty-acre parcels, except in case of fractions containing either more or less than forty acres, which shall be sold entire. In no event shall any parcel be sold for a less sum than its appraised value. The residue of such lands remaining unsold after such public offering shall thereafter be subject to private sale for cash at the appraised value of the same upon application at the local land office.

Sec. 6. That when any of the agricultural lands on said reservation not allotted under this act nor reserved for the future use of said Indians have been surveyed, the Secretary of the Interior shall give thirty days' notice through at least one newspaper published at Saint Paul and Crookston, in the State of Minnesota, and, at the expiration of thirty days, the said agricultural lands so surveyed shall be disposed of by the United States to actual settlers only under the provisions of the homestead law: *Provided*, That each settler under and in accordance with the provisions of said homestead laws shall pay to the United States for the land so taken by him the sum of one dollar and twenty-five cents for each and every acre, in five equal annual payments, and shall be entitled to a patent therefor only at the expiration of five years from the date of entry, according to said homestead laws, and after the full payment of said one dollar and twenty-five cents per acre therefor, and due proof of occupancy for said period of five years; and any conveyance of said lands so taken as a homestead, or any contract touching the same, prior to the date of final entry, shall be null and void: *Provided*, That nothing in this act shall be held to authorize the sale or other disposal under its provision of any tract upon which there is a subsisting, valid, preemption or homestead entry, but any such entry shall be proceeded with under the regulations and decisions in force at the date of its allowance, and if found regular and valid, patents shall issue thereon: *Provided*, That any person who has not heretofore had the benefit of the homestead or preemption law, and who has failed from any cause to perfect the title to a tract of land heretofore entered by him under either of said laws may make a second homestead entry under the provisions of this act.

Sec. 7. That all money accruing from the disposal of said lands in conformity with the provisions of this act shall, after deducting all the expenses of making the census, of obtaining the cession and relinquishment, of making the removal and allotments, and of completing the surveys and appraisals, in this act provided, be placed in the Treasury of the United States to the credit of all the Chippewa Indians in the State

of Minnesota as a permanent fund, which shall draw interest at the rate of five per centum per annum, payable annually for the period of fifty years, after the allotments provided for in this act have been made, and which interest and permanent fund shall be expended for the benefit of said Indians in manner following: One-half of said interest shall, during the said period of fifty years, except in the cases hereinafter otherwise provided, be annually paid in cash in equal shares to the heads of families and guardians of orphan minors for their use; and one-fourth of said interest shall, during the same period and with the like exception, be annually paid in cash in equal shares per capita to all other classes of said Indians; and the remaining one-fourth of said interest shall, during the said period of fifty years, under the direction of the Secretary of the Interior, be devoted exclusively to the establishment and maintenance of a system of free schools among said Indians, in their midst and for their benefit; and at the expiration of the said fifty years, the said permanent fund shall be divided and paid to all of said Chippewa Indians and their issue then living, in cash, in equal shares: *Provided*, That Congress may, in its discretion, from time to time, during the said period of fifty years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding five per centum thereof. The United States shall, for the benefit of said Indians, advance to them as such interest as aforesaid the sum of ninety thousand dollars annually, counting from the time when the removal and allotments provided for in this act shall have been made, until such time as said permanent fund, exclusive of the deductions hereinbefore provided for, shall equal or exceed the sum of three million dollars, less any actual interest that may in the meantime accrue from accumulations of said permanent fund; the payments of such interest to be made yearly in advance, and, in the discretion of the Secretary of the Interior, may, as to three-fourths thereof, during the first five years be expended in procuring live-stock, teams, farming implements, and seed for such of the Indians to the extent of their shares as are fit and desire to engage in farming, but as to the rest, in cash; and whenever said permanent fund shall exceed the sum of three million dollars the United States shall be fully reimbursed out of such excess, for all the advances of interest made as herein contemplated and other expenses hereunder.

SEC. 8. That the sum of one hundred and fifty thousand dollars is hereby appropriated, or so much thereof as may be necessary, out of any money in the Treasury not otherwise appropriated, to pay for procuring the cession and relinquishment, making the census, surveys, appraisals, removal and allotments, and the first annual payment of interest herein contemplated and provided for, which money shall be expended under the direction of the Secretary of the Interior in conformity with the provisions of this act. A detailed statement of which expenses, except the interest aforesaid, shall be reported to Congress when the expenditures shall be completed.

Approved, January 14, 1889.

MR. MERITT. We have also the act of February 20, 1904, relating to the Red Lake Indians. I would like to have this act appear in the record.

THE CHAIRMAN. If there is no objection it is so ordered.

(The said act follows:)

CHAP. 161.—AN ACT TO AUTHORIZE THE SALE OF A PART OF WHAT IS KNOWN AS THE RED LAKE INDIAN RESERVATION, IN THE STATE OF MINNESOTA.

Whereas James McLaughlin, United States Indian inspector, did, on the tenth day of March, anno Domini nineteen hundred and two, make and conclude an agreement with the adult male Indians of the Red Lake Reservation, in the State of Minnesota, which said agreement is in words and figures as follows:

"This agreement made and entered into this tenth day of March, nineteen hundred and two, by and between James McLaughlin, United States Indian inspector, on the part of the United States, and the Red Lake and Pembina bands of Chippewa Indians belonging on the Red Lake Reservation in the State of Minnesota, witnesseth:

"ARTICLE 1. The said Indians belonging on the Red Lake Indian Reservation, Minnesota, for the consideration hereinafter named, do hereby cede, surrender, grant, and convey to the United States all their claim, right, title and interest in and to all that part of the Red Lake Indian reservation situate within the boundaries of Red Lake County, Minnesota, as said county is at present defined and organized, the tract hereby ceded being more particularly described as embracing all that part of the said Red Lake Reservation lying west of the range line between ranges thirty-eight

(38) and thirty-nine (39) west of the fifth (5th) principal meridian, the tract of land hereby ceded approximating two hundred and fifty-six thousand one hundred and fifty-two (256,152) acres, and also hereby agree that all of said Indians now residing on the tract hereby ceded shall remove to the diminished reservation within six months after the ratification of this agreement, and shall be paid not exceeding five thousand (5,000) dollars in cash by the Indians of said Red Lake Reservation out of the first payment received by them from the proceeds of this cession, said five thousand (5,000) dollars, or so much thereof as may be necessary, to be paid equitable to those thus removing, in proportion to the value of their respective improvements, which payment by said Red Lake Indians, shall be in full for all improvements which they will abandon, and also for the removal within the diminished reservation of their dead from where they are now buried on the tract hereby ceded.

"ART. II. In consideration of the land ceded, relinquished, and conveyed by Article I of this agreement, the United States stipulates and agrees to pay to said Indians, in the manner hereinafter provided, the sum of one million (1,000,000) dollars.

"ART. III. It is understood that of the amount to be paid to said Indians, as stipulated by Article II of this agreement, the sum of two hundred and fifty thousand (250,000) dollars shall be paid in cash, per capita, share and share alike, to each man, woman, and child belonging on said Red Lake Indian Reservation, within ninety (90) days after the ratification of this agreement, and the remainder of the said sum of one million dollars, viz, seven hundred and fifty thousand (750,000) dollars shall be paid in cash, per capita, in fifteen (15) annual installments of fifty thousand (50,000) dollars each, the first of which fifteen annual installments to be paid in the month of October of the year following that in which payment of the said two hundred and fifty thousand (250,000) dollars is made, as provided in this agreement, and in the month of October of each year thereafter of the succeeding fourteen years, covering the period of said fifteen annual installments.

"ART. IV. It is further agreed that the said Indians belonging on said Red Lake Indian Reservation, Minnesota, shall possess their diminished Reservation independent of all other bands of the Chippewa tribe of Indians and shall be entitled to allotments thereon of one hundred and sixty (160) acres each, of either agricultural or pine land, the different class of land to be apportioned as equitably as possible among the allottees.

"ART. V. It is understood that nothing in this agreement shall be construed to deprive the said Indians belonging on the Red Lake Indian Reservation, Minnesota, of any benefits to which they are entitled under existing treaties for agreements not inconsistent with the provisions of this agreement.

"ART. VI. This agreement shall take effect and be in force when signed by United States Indian Inspector James McLaughlin and by a majority of the male adult Indians, parties hereto, and when accepted and ratified by the Congress of the United States.

"In witness whereof the said James McLaughlin, United States Indian inspector, on the part of the United States, and the male adult Indians belonging on the Red Lake Indian Reservation, Minnesota, have hereunto set their hands and seals at Red Lake Indian Agency, Minnesota, this tenth day of March, A. D. nineteen hundred and two.

"JAMES McLAUGHLIN, [SEAL.]

"United States Indian Inspector.

No.	Name		Mark.	Age.	
1	Kah bay no din.....	Chief.....	x	67	(SEAL.)
2	Mays ko ko noy ay.....	.....do.....	x	70	(SEAL.)
3	Pay she ke shig.....	.....do.....	x	35	(SEAL.)
4	Nay ay tow up.....	.....do.....	x	54	(SEAL.)
5	Ak mun e ay ke zhig.....	.....do.....	x	76	(SEAL.)
6	I con je gwon abe.....	.....do.....	x	63	(SEAL.)
7	Kay bay gah bow.....	.....do.....	x	55	(SEAL.)

and 213 other male adult Indians."

We, the undersigned, hereby certify that the foregoing agreement was fully explained by us in open council to the Indians of the Red Lake Reservation, Minnesota; that it was fully understood by them before signing, and that the agreement was duly executed and signed by said Indians.

JOS. C. ROY,
C. W. MORRISON,
PETER GRAVES,
Interpreters.

RED LAKE AGENCY, MINN., March 12, 1902.

We, the undersigned, do hereby certify that we witnessed the signatures of James McLaughlin, U. S. Indian Inspector, and the two hundred and twenty (220) Indians of the Red Lake Reservation, Minnesota, to the foregoing agreement.

DANIEL SULLIVAN,
Overseer in Charge of Subagency.
 FRANK H. KRATKA,
Mayor of Thief River Falls, Minn.
 B. L. FAIRBANKS,
White Earth Agency, Minn.

RED LAKE AGENCY, MINN., *March 12, 1902.*

I hereby certify that the total number of male adult Indians, over eighteen (18) years of age, belonging on the Red Lake Reservation, is three hundred and thirty-four (334), of whom two hundred and twenty (220) have signed the foregoing agreement.

G. L. SCOTT,
Major Tenth Cavalry, Acting Indian Agent.

LEECH LAKE AGENCY, MINN., *March 17, 1902.*

And

Whereas it is deemed for the best interests of the said Indians that said agreement be amended and modified as hereafter provided: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That said agreement be, and the same is hereby, modified and amended so as to read as follows:

"ARTICLE I. The said Indians belonging on the Red Lake Indian Reservation, Minnesota, for the consideration hereinafter named, do hereby cede, surrender, grant, and convey to the United States all their claim, right, title, and interest in and to all that part of the Red Lake Indian Reservation lying west of the range line between ranges thirty-eight and thirty-nine, west of the fifth principal meridian, the tract of land hereby ceded approximating two hundred and fifty-six thousand one hundred and fifty-two acres, and also hereby agree that all of said Indians now residing on the tract hereby ceded shall remove to the diminished reservation within six months after the ratification of this agreement, and shall be paid not exceeding twenty thousand dollars in cash by the Indians of said Red Lake Reservation out of the first payment received by them from the proceeds of this cession, said twenty thousand dollars, or so much thereof as may be necessary, to be paid equitably to those removing, in proportion to the value of their respective improvements, which payment by said Red Lake Indians shall be in full for all improvements which they will abandon, and also for the removal within the diminished reservation of their dead from where they now are buried on the tract hereby ceded.

"ART. II. In consideration of the land ceded, relinquished, and conveyed by Article I of this agreement the United States stipulates and agrees to sell, subject to the homestead laws of the United States, under rules and regulations to be prescribed by the Secretary of the Interior, in tracts not to exceed one hundred and sixty acres to each individual, all of said lands, except lands remaining unsold after five years from the first sale hereunder, which may be sold without reference to the provisions of the homestead law. Said land shall be sold for not less than four dollars per acre, and shall be sold upon the following terms: One-fifth of the purchase price to be paid at the time of sale and the balance of the purchase price of said land to be paid in five equal annual installments due in one, two, three, four, and five years from date of sale, respectively, and to pay over to said Indians all of the proceeds realized from the sale of the said lands as herein provided.

"ART. III. It is understood that of the amount realized from the sale of said lands a sum of not exceeding three hundred thousand dollars shall be paid in cash per capita, share and share alike, to each man, woman, and child belonging on said Red Lake Indian Reservation within ninety days after the first sale herein provided for, and the remainder of the proceeds of the sale of said lands shall be paid in cash per capita in fifteen annual installments, the first of which fifteen annual installments is to be paid in the month of October of the year following that in which the payment of the said three hundred thousand dollars is made, as provided in this agreement, and in the month of October of each year thereafter, and all moneys received after the expiration of said fifteen years shall be apportioned in like manner among said Indians and paid to them on the first day of October in each year.

"ART. IV. It is further agreed that the said Indians belonging on the said Red Lake Indian Reservation, Minnesota, shall possess their diminished reservation independent of all other lands of the Chippewa tribe of Indians and shall be entitled to allotments thereon of one hundred and sixty acres each, of either agricultural or pine land, the different classes of land to be apportioned as equitably as possible among the allottees.

"ART. V. It is understood that nothing in this agreement shall be construed to deprive the said Indians belonging on the Red Lake Indian Reservation, Minnesota, of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this agreement. It is the intention of this agreement that the United States shall act as trustee for said Indians to dispose of said land and to expend and pay over the proceeds as received from the sale thereof only as received, as herein provided.

"ART. VI. This agreement shall take effect and be in force when accepted and ratified by the Congress of the United States."

SEC. 2. That said agreement be, and the same is hereby, accepted and ratified as herein amended.

SEC. 3. That the Secretary of the Interior is hereby authorized and directed to sell, subject to the homestead laws of the United States, under such rules and regulations as he may prescribe, in tracts not to exceed one hundred and sixty acres to each individual, all that part of the Red Lake Reservation, in the State of Minnesota, lying westerly of the range line between ranges thirty-eight and thirty-nine west of the fifth principal meridian, approximating two hundred and fifty-six thousand acres. And the said land shall be sold for not less than four dollars per acre, and shall be sold upon the following terms: One-fifth of the price bid therefor to be paid at the time the bid is made, and the balance of the purchase price of said land to be paid in five equal annual installments, due in one, two, three, four, and five years from date of sale, respectively, payment to be made to the receiver of the United States land office for the district in which said land may be situated. And in case any purchaser fails to make such annual payments promptly when due, or within sixty days thereafter, all rights in and to the land covered by his or her purchase shall at once cease, and any payments made shall thereupon be forfeited and the Secretary of the Interior shall thereupon declare such forfeiture by reoffering said land for sale. And no patent shall issue to the purchaser until the purchaser shall have paid the purchase price and in all respects complied with the terms and provisions of the homestead laws of the United States: *Provided*, That such purchaser shall have the right of commutation as provided by section twenty-three hundred and one of the Revised Statutes of the United States, by paying for the land at the price for which it sold, receiving credit for payments previously made: *Provided further*, That such purchaser shall make his final proof conformable to the homestead laws within six years from the date of sale: that aliens who have declared their intention to become citizens of the United States may become purchasers under this act, but before making final proof and acquiring title must take out their full naturalization papers; and that persons who may have heretofore exhausted their rights under the homestead law may become purchasers under this act: *Provided further*, That after the first sale hereunder shall be closed, the lands remaining unsold shall be subject to sale and entry at the price of four dollars per acre by qualified purchasers, subject to the same terms and conditions as herein prescribed as to lands sold at said first sale: *Provided further*, That all lands above described which shall remain unsold at the expiration of five years from the date of the first sale hereunder shall be offered for sale at not less than four dollars per acre (and lands remaining unsold after such sale shall be subject to private entry and sale at said price), without any conditions whatever except the payment of the purchase price: *And provided further*, That wherever the boundary line of said reservation runs diagonally so as to divide any Government subdivision of a section, and the owner of that portion of such subdivision now being outside of the reservation becomes the purchaser of that portion of such subdivision lying within the reservation, residents and improvements upon either portions of such subdivision as provided by the homestead law shall constitute a compliance as to all such Government subdivisions.

Mr. MERITT. There is also an act of April 28, 1904, relating to additional allotments on the White Earth Reservation. This is found in volume 33 of the Statutes at Large, page 539. I should like to have that act appear in the record.

The CHAIRMAN. If there is no objection it is so ordered.

(The said act follows:)

All of the Indians residing upon the tract above described shall remove therefrom to the diminished reservation within six months after the passage of this act; and there is hereby appropriated from the proceeds of said sale the sum of twenty thousand dollars, or so much thereof as may be necessary, to be paid to those thus removing in proportion to their respective improvements, which payment to the said Red Lake Indians shall be in full for all improvements which they will abandon, and also for the expense of removal within the diminished reservation of their dead from where they are now buried on the tract above described, and the expense of making allotments.

The proceeds of said lands as realized from time to time shall be paid into the United States Treasury to the credit of the Indians belonging on said reservation. Of the amount realized from the sale of said lands a sum not exceeding three hundred thousand dollars shall be paid in cash, per capita, share and share alike, to each man, woman, and child belonging on said Red Lake Indian Reservation within ninety days after the first sale herein provided for, and the remainder of the proceeds of the sale of said lands shall be paid in cash, per capita, in fifteen annual installments, the first installment to be paid in the month of October of the year following that in which the payment of the three hundred thousand dollars is made; and all moneys received after the expiration of said fifteen years shall be apportioned in like manner among said Indians and paid to them on the first day of October in each year.

The Secretary of the Interior is hereby vested with full power and authority to make such rules and regulations as to the time of notice, manner of sale, and other matters incident to the carrying out of the provisions of this act as he may deem necessary, and with authority to continue making sale of said lands until all of said lands shall have been sold.

In addition to the price to be paid for the land, the entrymen shall pay the same fees and commissions at the time of commutation or final entry as now provided by law where the price of the land is one dollar and twenty-five cents per acre.

SEC. 4. That nothing in this act contained shall in any manner bind the United States to purchase any portion of the land herein described, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of said lands and to expend and pay over the proceeds received from the said sale thereof only as received as herein provided.

SEC. 5. That this act shall take effect and be in force from and after its passage.

Approved, February 20, 1904.

CHAP. 1786.—AN ACT TO PROVIDE ALLOTMENTS TO INDIANS ON WHITE EARTH RESERVATION IN MINNESOTA.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to allot to each Chippewa Indian now legally residing upon the White Earth Reservation, under treaty or laws of the United States, in accordance with the express promise made to them by the commissioners appointed under the act of Congress entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January fourteenth, eighteen hundred and eighty-nine, and to those Indians who may remove to said reservation who are entitled to take an allotment under article seven of the treaty of April eighteenth, eighteen hundred and sixty-seven, between the United States and the Chippewa Indians of the Mississippi, one hundred and sixty acres of land; and said allotments shall be, and the patents issued therefor, in the manner and having the same effect as provided in the general allotment act, "An act to amend and further extend the benefits of the act approved February eighth, eighteen hundred and eighty-seven, entitled 'An act to provide for the allotment of land in severalty to Indians on the various reservations and extend the protection of the commissioners of the United States over the Indians, and for other purposes,'" approved February twenty-eighth, eighteen hundred and ninety-one: *Provided*, That where any allotment of less than one hundred and sixty acres has heretofore been made, the allottee shall be allowed to take an additional allotment, which, together with the land already allotted, shall not exceed one hundred and sixty acres: *And provided further*, That if there is not sufficient land in said White Earth (diminished) Reservation subject to allotment each Indian entitled to allotments under the provisions of this act shall receive a pro rata allotment.

Approved, April 28, 1904.

Mr. MERITT. There is also an act of May 23, 1908, found in volume 35, page 268, relating to the establishment of a national forest in the Chippewa country. I should be glad to have that act appear in the record.

The CHAIRMAN. If there is no objection it is so ordered.
(The said act follows:)

CHAP. 193.—AN ACT AMENDING THE ACT OF JANUARY FOURTEENTH, EIGHTEEN HUNDRED AND EIGHTY-NINE, AND ACTS AMENDATORY THEREOF, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby created in the State of Minnesota a national forest consisting of lands and territory described as follows, to wit:

Beginning at a point where the north line of section thirty-one in township one hundred and forty-eight north, range twenty-eight west, fifth principal meridian, intersects the low water mark of the lake formed by the waters of Third River; thence easterly along the north line of sections thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, and thirty-six in township one hundred and forty-eight north, ranges twenty-eight and twenty-seven west, continuing easterly along the north line of section thirty-one in township one hundred and forty-eight north, range twenty-six west, to a point where said line intersects the low water mark of Bow String Lake on the west shore; thence southerly along the west side of said lake at low water mark to a point where it crosses the section line between sections sixteen and seventeen in township one hundred and forty-seven north, range twenty-six west; thence southerly along the section line on the east side of sections seventeen, twenty, twenty-nine, and thirty-two in township one hundred and forty-seven north, range twenty-six west, and continuing southerly along the east side of sections five, eight, seventeen, twenty, twenty-nine, and thirty-two, township one hundred and forty-six north, range twenty-six west, continuing southerly along the east line of sections five, eight, seventeen, twenty, and twenty-nine, township one hundred and forty-five north, range twenty-six west to a point at the low water mark on the right bank of the Mississippi River on the section line between sections twenty-eight and twenty-nine in said township; thence southeasterly along the right bank of the Mississippi River at low water mark to its confluence with Leech Lake River in section twelve in township one hundred and forty-four north, range twenty-six west; thence southwesterly along the right bank of Leech Lake River along the low water mark to Mud Lake; thence along the line of low water mark of Mud Lake on its northern and western shores to the point where Leech Lake River empties into the same on fractional section thirty-two, township one hundred and forty-four north, range twenty-six west; thence up said river along the low water mark on the right bank thereof to a point in fractional section twenty-nine where the line intersects the low water mark of Leech Lake; thence in a northwesterly and southwesterly direction following the contours of said lake at low water mark to the point at low water mark on the shore of said lake on the northeast boundary of the ceded Leech Lake Indian Reservation on section line between sections five and eight, township one hundred and forty-three north, range twenty-nine west; thence in a southwesterly direction following the contours of said lake at low water mark to the point on said lake at the southwestern extremity of Ottertail Point; thence southwesterly in a direct line to the southern extremity of section twenty-five in township one hundred and forty-three north, range thirty-one west; thence in a westerly direction along the contour of said lake to the southwestern extremity of section twenty-six in said township; thence in a northerly and westerly direction along the contour of said lake at low water mark to a point where the center line through section two, running in a north and south direction in township one hundred and forty-three north, range thirty-one west intersects the low water mark of Leech Lake; thence northerly through the middle of said section two to the shore of a small lake at low water mark; thence along the east shore of said lake at low water line to a point where the section line between sections thirty-five and thirty-six, township one hundred and forty-four north, range thirty-one west, intersects low water mark of said lake on north shore; thence northerly on section line between sections thirty-five, thirty-six, twenty-five, and twenty-six to the low water mark at the shore of a small lake; thence northerly along the east side of said lake to a point where the section line between sections twenty-five and twenty-six intersects the low water mark of said lake in said township; thence northerly along the east line of sections twenty-six, twenty-three, and fourteen to a point on the

east line of section fourteen, twenty chains north of the southeast corner of section fourteen; thence west twenty chains; thence north twenty chains; thence west twenty chains; thence northerly along the east side of a small lake to a point where the center line running in a north and south direction through section fourteen intersects the north side of said lake at low water mark; thence northerly along the center line of said section through section eleven to the quarter corner between sections two and eleven of said township; thence westerly to a point twenty chains west of the northwest corner of section eleven; thence north forty chains; thence west twenty chains; thence north to a point where the center line running in a north and south direction in section three intersects the township line between townships one-hundred and forty-four and one hundred and forty-five north, range thirty-one west; thence westerly to the quarter quarter corner on the township line in the southeast quarter of section thirty-four in township one hundred and forty-five north, range thirty-one west; thence north twenty chains; thence west forty chains; thence north twenty chains; thence west twenty chains to the quarter corner between sections thirty-three and thirty-four in said township and range; thence northerly along the east line of sections thirty-three, twenty-eight, twenty-one and sixteen in said township to a point where it intersects the right-of-way of the Great Northern Railway as at present located; thence easterly along said right-of-way to a point where it intersects the shore of Cass Lake at low water mark in section fifteen, township one hundred and forty-five north, range thirty-one west; thence northerly along the west shore of Cass Lake and the south, west, and north shore of Allen's Bay and the northwest shore of Cass Lake to a point along the contour of said lake at low water mark at the head of the Mississippi River, approximately in section twenty-one, township one hundred and forty-six north, range thirty west; thence easterly along the right bank of said river to a point where the range line between ranges twenty-nine and thirty west intersects said river; thence northerly along the range line to the northwest corner of section nineteen in township one hundred and forty-seven north, range twenty-nine west; thence easterly along the north line of sections nineteen, twenty, twenty-one, twenty-two, twenty-three, and twenty-four in said township and along the north side of sections nineteen and twenty in township one hundred and forty-seven north, range twenty-eight west to a point where said line intersects the left bank of Third River at low water mark; thence northerly along the right bank of Third River to the contour line at low water mark of the lake formed by the waters of Third River; thence southeasterly and northerly along the contour line of said lake to the point of beginning; and it is the intent of this act to include in said national forest and make a part thereof all that certain territory and land which has heretofore been selected by the Forester of the Department of Agriculture as the ten sections situated in townships one hundred and forty-four, one hundred and forty-five, and one hundred and forty-six north, ranges thirty and thirty-one west of the fifth principal meridian in Minnesota and designated as being the ten sections referred to and authorized to be selected by section two of the act approved June twenty-seventh, nineteen hundred and two, being chapter eleven hundred and fifty-seven, United States Statutes at Large, volume thirty-two, entitled "An act to amend an act entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,'" approved January fourteenth, eighteen hundred and eighty-nine; and also all the islands in Cass Lake in the State of Minnesota.

And in addition to the lands and territory above described, the lands described by section two of said act of June twenty-seventh, nineteen hundred and two, as follows: "One hundred and sixty acres at the extremity of Sugar Point, on Leach Lake, and the peninsula known as Pine Point, on which the new Leech Lake Agency is now located" shall be included in and are hereby made a part of said national forest: *Provided*. That this act shall not in any manner abridge the right of citizens to the use of the west and northwesterly shores of Cass Lake.

SEC. 2. The Secretary of the Interior is hereby authorized to proceed with the sale of the merchantable pine timber upon the above described land outside of said ten sections and said islands and points, in conformity with the provisions of said Act above entitled, and reserving ten per centum of such timber from sale, said ten per centum to be designated by the Forester of the United States Department of Agriculture; and as to the timber upon said ten sections and said islands and points, the said Forester is authorized, under such rules and regulations as he may prescribe from time to time to sell and dispose of so much of the standing timber thereon as he may deem wise and advisable in the conduct of a national forest: *Provided*, That a commission of three persons shall at once be appointed, consisting of one person to be designated by the President, one by the Secretary of the Interior, and one by a general council of the Indians of the Winnibigoshish, Cass Lake, Chippewas of the Mississippi Reservation, and Leech Lake Reservation to be held under the direction of the agent at

Leech Lake Indian Agency; and said commissioners shall proceed forthwith to appraise the value of the five per centum of timber heretofore reserved from sale by the provisions of said act entitled "An act to amend an act entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,'" approved January fourteenth, eighteen hundred and eighty-nine, and the ten per centum hereafter reserved under the provisions of this act, and the timber upon said ten sections and upon the unappropriated lands on said islands and points, and shall ascertain the acreage of actual land included under the provisions of this act and to the estimated value of said five per centum of timber reserved under the said act entitled "An act to amend an act entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,'" approved January fourteenth, eighteen hundred and eighty-nine, and the ten per centum reserved under this act and the estimated value of timber upon said ten sections and upon the unappropriated lands on said islands and points, to the sum of the values of the timber so estimated shall add an amount equal to one dollar and twenty-five cents for each and every acre of land not otherwise appropriated which they find covered by the provisions of this act, and shall certify the same to the Secretary of the Interior. The Indians designated in this section, acting through a representative who shall serve without compensation, to be named by them at the time of their appointment of the commissioner herein, shall have sixty days in which to appeal to the President of the United States from the findings of said commissioners, as certified to the Secretary of the Interior. At the end of said sixty days, if no appeal has been taken or if an appeal has been taken, then, upon the determination thereof by the President, the Secretary of the Interior shall certify the amount found by said commissioners, or if modified by the President the amount determined by him, to the Secretary of the Treasury, who shall thereupon place such amount to the credit of all the Chippewa Indians in the State of Minnesota as a part of the permanent fund of said "All of the Chippewa Indians in the State of Minnesota" provided for in an act of Congress entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January fourteenth, eighteen hundred and eighty-nine, and the acts supplementary thereto, and the amounts so certified to the Secretary of the Treasury shall draw interest at the rate of five per centum per annum, pursuant to the terms of said acts.

SEC. 3. That any Indian having an allotment within the limits of the national forest created by this act is hereby authorized to relinquish such allotment and permitted to take another allotment in lieu thereof outside such national forest, under the direction of the Secretary of the Interior; and the allotments of any deceased Indians located within the boundaries of said national forest shall not hereafter be disposed of under section seven of the act of June twenty-seventh, nineteen hundred and two (volume thirty-second Statutes at Large, page two hundred and forty-five); but the heirs of said deceased Indians shall have the right, with the consent of the Secretary of the Interior and under such rules as he may prescribe, to relinquish to the United States the lands covered by such allotments and to select surveyed, unappropriated, unreserved land within the limits of any of the ceded Indian lands in the State of Minnesota and outside of the national forest hereby created in lieu of the land covered by such allotments; and the lands so relinquished by the Indians or their heirs shall thereupon become part of the said national forest. And the Secretary of the Interior is hereby authorized on request of the forester of the Department of Agriculture to purchase such relinquishments from said Indians or their heirs and to pay for the same from any moneys received, after the appraisal of timber herein provided for, on account of the sale of timber from the national forest hereby created, or from the sale of any other products or the use of any lands or resources thereof.

SEC. 4. That all land in any of said reservations, the Winnibigoshish Indian Reservation, Cass Lake Indian Reservation, Chippewas of the Mississippi Reservation, or Leech Lake Indian Reservation not included in the national forest hereby created as above described, heretofore classified or designated as agricultural lands, is hereby declared to be open to homestead settlement; and any of said land which has been classified as timber land shall be open to homestead settlement as soon and as fast as the timber is removed therefrom, in conformity with the homestead law, except that none of said lands shall be disposed of except on payment of one dollar and twenty-five cents per acre.

SEC. 5. That all moneys received from the sale of timber from any of the lands set aside by this act for a national forest, prior to the appraisal herein provided for, including all moneys received for timber under sales made by the Secretary of the Interior as authorized by existing laws and section two of this act, shall be placed to the credit of the Chippewa Indians in the State of Minnesota, as provided for in an act of Congress entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January fourteenth, eighteen hundred and eighty-

nine, and the acts supplementary thereto, and shall draw interest at the rate of five per centum per annum, pursuant to the terms of said acts; and after said appraisal the national forest hereby created, as above described, shall be subject to all general laws and regulations from time to time governing national forests, so far as said laws and regulations may be applicable thereto.

SEC. 6. That the commissioners provided for herein shall receive a compensation of ten dollars per day each for each and every day actually spent upon the work herein provided for, which shall be paid out of any money in the Treasury of the United States not otherwise appropriated, and no commissioner shall be paid for more than ten days' service.

SEC. 7. None of the Indian graves now upon any of the islands or points referred to in this act shall be disturbed and the Indians shall continue to have the right to bury their dead at such places as they have heretofore used for that purpose, under the rules and regulations to be prescribed by the Forest Service.

SEC. 8. That nothing in this act contained shall in any manner bind the United States to purchase any of the land in said reservations excluded from the reserve created by this act, or to dispose of said land, except as provided by the act of January fourteenth, eighteen hundred and eighty-nine, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," and an act of June twenty-seventh, nineteen hundred and two, entitled "An act to amend an act for the relief and civilization of the Chippewa Indians in the State of Minnesota," or the provisions of this act; or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of the said lands and the timber thereon, and to dispose of the proceeds thereof, as provided in said acts, only when received from the sale of the timber and the lands, as therein provided.

Approved, May 23, 1908.

Mr. MERITT. I also offer for the record the act creating the forest reserve on the Red Lake Reservation—act of May 18, 1916 (123-137):

To carry into effect the act entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota, approved January 14, 1889, to provide for the establishment and administration of a forest reserve and for the sale of timber within the Red Lake Indian Reservation, Minnesota," that the following-described lands within the Red Lake Indian Reservation, Minnesota, be, and the same hereby are, created into a forest reserve, to be known as the Red Lake Indian Forest: Townships one hundred and fifty and one hundred and fifty-one north, ranges thirty-two, thirty-three, thirty-four, thirty-five, and thirty-six west, and townships one hundred and fifty-two and one hundred and fifty-three north, ranges thirty-two, thirty-three, and thirty-four west of the fifth principal meridian, except the lands in townships one hundred and fifty-one north, range thirty-six west, which lie north of the north line of sections twenty-six to thirty, inclusive, and except all lands within sections four, five, six, seven, eight, nine, and eighteen, in township one hundred and fifty-three north, range thirty-four west. The provisions of this paragraph shall not apply to any lands which have heretofore been reserved for school, agency, church, or town-site purposes or granted to private parties or corporations within the area described, nor to the town site of Red Lake, for the creation of which provision is made herein: *Provided*, That when any of said lands are no longer needed for the purpose for which they are reserved, the Secretary of the Interior may declare such lands to be a part of the Red Lake Indian Forest.

That lands within said Red Lake Indian Forest, which are not covered with standing and growing merchantable pine timber and which are suited for the production of agricultural crops and which are fronting upon a lake shore, may be allotted to individual Red Lake Indians: *Provided*, That no such allotment shall exceed eighty acres nor have more than eighty rods fronting upon a lake shore: *Provided further*, That in case an Indian has improved and cultivated more than eighty acres, his allotment may embrace his improvements to the extent of one hundred and sixty acres.

That said forest shall be administered by the Secretary of the Interior in accordance with the principles of scientific forestry, with a view to the production of successive timber crops thereon, and he is hereby authorized to sell and manufacture only such standing and growing pine and oak timber as is mature and has ceased to grow, and he is also authorized to sell and manufacture from time to time such other mature and marketable timber as he may deem advisable, and he is further authorized to construct and operate sawmills for the manufacture of the timber into merchantable products and to employ such persons as he shall find necessary to carry out the purposes of the foregoing provisions, including the establishment of nurseries and the purchase of

seeds, seedlings, and transplants when needed for reforestation purposes: *Provided*, That all timber sold under the provisions herein shall be sold on what is known as the bank scale: *Provided further*, That no contract shall be made for the establishment of any mill, or to carry on any logging or lumbering operations which shall constitute a charge upon the proceeds of the timber, until an estimate of the cost thereof shall have first been submitted to and approved by Congress.

That the Secretary of the Interior may issue permits or grant leases on such lands for camping or farming. No permit shall be issued for a longer term than one year and no lease shall be executed for a longer term than five years. Every permit or lease issued under authority of this act to Indians, or to other persons or corporations, and every patent for an allotment within the limits of the forest created by section one, shall reserve to the United States the right to cross the land covered thereby with logging roads or railroads, to use the shore line, or to erect thereon and use such structures as shall be necessary to the proper and economical management of the Indian forest created by this act; and the Secretary of the Interior may reserve from allotment tracts considered necessary for such administration.

After the payment of all expenses connected with the administration of these lands as herein provided, the net proceeds therefrom shall be covered into the Treasury of the United States to the credit of the Red Lake Indians and draw interest at the rate of 4 per centum per annum. The interest on this fund may be used by the Secretary of the Interior in such manner as he shall consider most advantageous and beneficial to the Red Lake Indians. Expenditure from the principal shall be made only after the approval by Congress of estimates submitted by the said Secretary.

That the Secretary of the Interior shall select and set apart an area not exceeding two hundred acres, in sections twenty, twenty-one, twenty-eight, and twenty-nine, township one hundred and fifty-one north, range thirty-four west, cause the lands thus selected to be surveyed and platted into suitable lots, streets, and alleys, and dedicate said streets and alleys and such lots and parcels as he may consider necessary to public uses. The lands thus selected shall not be allotted, but held as an Indian town site subject to further legislation by Congress.

That the timber on lands of the Red Lake Indian Reservation outside the boundaries of the forest created by this act may be sold under regulations prescribed by the Secretary of the Interior, and the proceeds administered under the provisions of the general deficiency act of March 3, 1883 (Twenty-second Statutes at Large, page 590), and the Indian appropriation act of March 2, 1887 (Twenty-fourth Statutes at Large, page 463).

Mr. MERITT. It should be made quite plain to the committee that Mr. Ballinger does not represent all of the Chippewa Indians. He is here as attorney for the Chippewa council.

The CHAIRMAN. May I ask if that is the council the bureau now recognizes?

Mr. MERITT. Yes, sir; we have recognized the Chippewa council.

The CHAIRMAN. Then, you are dealing with Mr. Ballinger as attorney for the Chippewa council?

Mr. MERITT. Yes, sir.

The CHAIRMAN. And that is supposed to include all of the people, isn't it?

Mr. MERITT. No, sir.

The CHAIRMAN. Well, from a legal standpoint?

Mr. MERITT. Not from a legal standpoint; no, sir.

The CHAIRMAN. Well, from a political standpoint?

Mr. MERITT. From a political standpoint the Chippewa council represents the Chippewa Indians at this time.

The CHAIRMAN. It represents the majority of the Chippewa Indians as represented by the vote that elected the council?

Mr. MERITT. Yes, sir; but there are a great many Chippewa Indians who repudiate the council and they do not agree with the recommendations made by this council. Mr. Henderson is here to represent the Red Lake Indians.

Mr. HASTINGS. The Red Lake Indians represented by this council, they also have selected a council?

Mr. MERITT. I believe the Red Lake Indians refused to have anything to do with the election of this council.

Mr. RHODES. The department represents the Indians through the council, or do you recognize a sort of dual make-up of the Indians of that tribe?

Mr. MERITT. We recognize the council as a council, but we do not permit the council to dominate the administrative or legislative affairs in the Chippewa country, so far as we can control the situation. We think that the Indians on the various reservations have a right to submit their views to the Indian Office, and in taking administrative action on their affairs we believe that we should consider the wishes of all the Indians rather than the wishes of the members of the Chippewa council.

Mr. RHODES. Now, does that mean that you recognize that there is merit in the contention of those who refuse to be bound by the council?

Mr. MERITT. Yes, sir.

Mr. MCKINIRY. I would like to have it appear in the record how many reservations there are for the Chippewas.

Mr. MERITT. We have the White Earth Reservation, Red Lake Reservation, Leech Lake Reservation, Cass Lake Reservation, Fond du Lac Reservation, Vermillion Lake Reservation, Grand Portage Reservation, and the Nett Lake Reservation.

Mr. KELLY. Are those all in Minnesota?

Mr. MERITT. Yes, sir.

The CHAIRMAN. Now, gentlemen, we started out with Mr. Ballinger and we have determined upon the time he is to have, and I think we ought not use up so much of that time in interrogating some other witness.

Mr. ELSTON. Mr. Meritt has not answered the question Mr. Ballinger asked him—whether they could start with the act of 1854—

The CHAIRMAN. Mr. Meritt refused to be bound or to commit himself in any way at this time. He answered the question in that way.

Mr. ELSTON. Then Mr. Ballinger has got to go away back. I understood the whole object of this was to save time.

The CHAIRMAN. He has to go back and clear up that point.

Mr. BALLINGER. Mr. Chairman, in view of the statement made by Mr. Meritt right at this point I want to make a few observations. There are some discordant elements among the Chippewas, but these discordant elements are largely the direct result of a back-fire on the part of the Indian Office against the members of the Chippewa general council. The general council has been endeavoring for years to stop the enormous appropriations that were being made out of their trust funds and the money uselessly expended largely in salaries of Indian Office employees in Minnesota and a limited amount for rations. There are a number of Indians out there who have been the beneficiaries of these pork-house institutions. I do not charge the Indian Bureau here directly with that, but I do charge that its agents in Minnesota are directly responsible for this back-fire and attempt to discredit the general council. These Indian Bureau employees in Minnesota desire to perpetuate their jobs, and they are the men who stir up the ignorant element to oppose the objects and aims of the general council.

Now, Mr. Chairman, I shall start with the treaty of 1854, and Mr. Meritt's refusal to accept that treaty as the basis of title will necessitate a reference to that treaty and to all subsequent treaties, agreements, and laws of Congress bearing upon the question of title. With the permission of the committee I shall state the substance of each treaty agreement and law of Congress and insert in my remarks the exact provisions, but if anybody in this room, with the permission of the committee, questions any statement that I make with reference to any treaty, agreement, or law of Congress, if he will rise and make known his exception I will read the text from the book. In that way I may be able to shorten the time, and I will take it that if there is silence they then assent.

The CHAIRMAN. That sounds like a challenge.

Mr. KELLY. That is assuming that they know accurately in their minds the substance of the treaties without reference to a book. I do not think you ought to make a statement of that kind. They may remain silent simply because they have no contrary notion in their minds.

Mr. MERITT. I want it understood that by silence we do not admit anything.

The CHAIRMAN. I think we ought to go along in an orderly way, and let Mr. Ballinger go ahead with his remarks. When the time comes for these statements we will take it up then.

Mr. BALLINGER. Prior to September 30, 1854, the then Chippewa Nation of Indians occupied a large tract of land situated in the then State of Wisconsin and the then Territory of Minnesota. By the treaty of September 30, 1854 (11 Stat., 599), the Chippewa Nation divided, a part remaining in Wisconsin and a part removing to Minnesota. Those remaining in Wisconsin were thereafter known as the Chippewa Indians of Lake Superior, and those who removed to Minnesota were thereafter known as the Chippewa Indians of the Mississippi. The Chippewa Indians of the Mississippi thereafter became commonly known as the Chippewa Indians of Minnesota. By that treaty the Chippewa Indians of Lake Superior ceded and relinquished to the Chippewa Indians of the Mississippi all their right, title, and interest in and to the lands in Minnesota (See sec. 1), which was thereafter held in common by the Chippewas of the Mississippi. This is found in article 1, paragraph 2, in these words:

The Chippewas of the Mississippi hereby assent and agree to the foregoing cession, and consent that the whole amount of the consideration money for the country ceded above shall be paid to the Chippewas of Lake Superior, and in consideration thereof the Chippewas of Lake Superior hereby relinquish to the Chippewas of the Mississippi all their interest in and claim to the lands heretofore owned by them in common, lying west of the above boundary line.

By the above provision of the treaty of 1854 the possessory right to all the lands in the Territory of Minnesota was conveyed to the "Chippewas of the Mississippi." Within the limits of this cession of the Chippewas of the Mississippi were the lands now embraced within the diminished Red Lake Reservation in Minnesota, and the Chippewas of the Mississippi have never surrendered their title to the Red Lake Reservation except by the agreements of 1889, entered into pursuant to the act of January 14, 1889 (25 Stats., 642), and then only upon the terms and conditions stated in said agreements.

By the treaty of February 22, 1855 (10 Stats., 1165), the Chippewa Indians of the Mississippi ceded to the United States a large tract of

their country, but this cession did not include the present diminished Red Lake Reservation, nor any of the lands that were embraced within the Red Lake Reservation in 1889, the land ceded being specifically described in article 1 of this treaty.

Now, gentlemen of the committee, let me make plain that after the treaty of 1854 and after the Mississippi Chippewas removed to the Territory of Minnesota—some of them having lived in the Territory for 50 years prior to the treaty of 1854, and others joining them after the treaty of 1854—settlements were made in different localities. The Indians who settled around Red Lake, for instance, became known as the Red Lake Band. Red Lakes derived their name from the color of their water. The same was true of the Leech Lake Indians, of the White Earth Band, and of all the 13 bands that constituted the Chippewas of the Mississippi. These separate bands constituted the Chippewas of the Mississippi Tribe, and the lands were the common property of all the Indians.

The act of May 15, 1886 (24 Stats., 44), authorized the Secretary of the Interior to negotiate with the several tribes and bands of Chippewa Indians in Minnesota for modifications of existing treaties. In the early eighties the necessity for additional land for white settlers in Minnesota became acute. The Chippewa Indians, numbering about 7,000, were then holding about 6,000,000 acres of land. The demands of the white population for the Indian lands were finally crystallized in a provision inserted in the Indian appropriation act of May 15, 1886 (24 Stats., 44), referred to at some length in Executive Document No. 110, first session, Fiftieth Congress, under which the Secretary of the Interior was authorized to negotiate with the several bands of Chippewa Indians in the State of Minnesota for modifications of the then existing treaties. Under this authority two agreements were negotiated, one with the Chippewas of the White Earth, Leech Lake, Cass Lake, Lake Winnebagoishish, and White Oak Point Reservations, and the Gull Lake and the Gull River Bands, and the second with the Indians residing on the Red Lake Reservation. After consideration of these agreements by the Indian Committees of Congress, many objectionable features were found, and in lieu thereof a bill was introduced in the House by the then Congressman Nelson, now the distinguished Senator from Minnesota. The bill was H. R. 7935, and this bill with slight modifications became the act of January 14, 1889.

In the report on this bill, submitted by the then Congressman Nelson, House Report No. 789, Fiftieth Congress, first session, the reasons for the rejection of the two agreements are set out at length in the report, and the objects and purposes of the bill (H. R. 7935) are fully explained. The principal objections to the agreements run to the conferring of absolute ownership on the 1,103 Indians residing on the Red Lake Reservation to about 4,000,000 acres of land, to the exclusion of all the other Chippewas, and the retention of about 1,000,000 acres of said land, out of which were to be made allotments to the Indians on the Red Lake Reservation, the residue to be held as communal property in perpetuity, and the preservation and continuation of tribal relations.

I am stating this to show what was in the mind of Congress when it passed the act of January 14, 1889, and the legislation carries out

in as clear form as it is possible for human language to carry into effect the intent of Congress as expressed in its committee reports. I read now from the Report No. 789, Fiftieth Congress, first session, page 2, which was the report on the bill that became the act of January 14, 1889:

To understand the subject matter of said bill and agreements fully, it is necessary to describe in detail the several reservations and Indian lands affected by these measures.

All the Indians in Minnesota are members of the great Chippewa family, which has for generations occupied the northern and northeastern half of the State. There are now in all about 7,500 of these Indians, who occupy reservations and unceded lands amounting in the aggregate to about 4,700,000 acres of land.

The following table shows in detail the name of each Indian reservation, the acreage thereof, and the number of Indians occupying the same, viz:

Red Lake, acreage 3,200,000, population 1,103.

White Earth, acreage 796,672, population 1,845.

White Oak Point, Cass Lake, and Winibigoshish, acreage 320,000, population 974.

Leech Lake, acreage 94,000, population 1,174.

Mille Lac, acreage 61,014, population 942.

Fond du Lac, acreage 100,121, population 455.

Boise Fort, acreage 107,509, population 702.

Grand Portage, acreage 51,840, population 301.

Totals, acreage 4,731,596, population 7,496.

The so-called Red Lake Reservation is simply a remnant of unceded Indian Territory occupied at present by the Red Lake Band, but really the common property, so far as the Indian title is concerned, of all the Chippewa Indians in Minnesota.

Then, after considering this agreement the Committee says:

The Red Lake agreement is also open to serious objection in perpetuating forever the tribal evolution of those 1,100 Red Lake Indians, by giving them in perpetuity a tribal fee title to a cool million acres of agricultural lands, less the individual allotments, which could not well exceed 160,000 acres of land.

I may pause and say that this is precisely the position of the department to-day, to keep them in that condition. They are unwilling to make allotments to them. The report continues:

This seems the height of prodigality, to first give each of these Indians a farm and then give the whole band, only 1,100 of them, over 800,000 acres in common in fee forever.

It is now conceded on all hands that the only safe and practical way to civilize the Indians is by allotting lands in severalty to them—breaking up their tribal relations and ownership in common, and putting them to work as individuals on their several allotments. Not only does the Red Lake agreement do violence to these views, but it seems particularly calculated to build up an Indian land monopoly and oligarchy, more than that which now exists among some of the so-called civilized tribes in Indian Territory.

The same objection—

The CHAIRMAN. In your judgment what could have been the reason for this large amount of land being handed to that band of the tribe at that time? There must have been a reason for that. They must have had some justification for it.

Mr. BALLINGER. Mr. Chairman, the Red Lake Indians were the only Indians occupying that section and they set up a claim to what they term the possessory rights of Indians, and, in addition to that, as I stated before, Congress in 1864 and 1865 had, in fact, dealt with them by treaty; but this question becomes immaterial in view of their subsequent agreement under which they relinquished that title.

The CHAIRMAN. All right; go ahead.

Mr. BALLINGER (continuing reading from the report):

The same objection exists as to the White Earth agreement; but as the overplus of land after filling allotments is not apt to be much over 200,000 acres of land, the objection is not so serious and far-reaching in its consequences.

Your committee are also opposed to the Red Lake bill above mentioned, for the reasons—

(1) That it is only a partial dealing with the Indian problem in Minnesota. It makes provision for only 1,100 Indians, while the residue, over 6,000 in all, are unprovided for.

(2) While all the Chippewas in Minnesota really belong to one family, and this Red Lake Reservation is really a remnant of all that country once occupied by them in common, and thus a sort of common property, yet the bill proposes to give the 1,100 Red Lake Indians the entire proceeds of the 3,200,000 acres reservation, less what may be required to fill allotments, while the other 6,000 Indians are to be limited to about 1,500,000 acres, less allotments; or, to put it more concisely, 1,100 Indians are to receive the exclusive benefit of 3,200,000 acres, while 6,000 Indians receive the benefit of only 1,500,000 acres. Your committee think this method of apportionment is unfair and unwise in every view.

All the Indians on the small outlying and scattered reservations should be removed to and colonized upon the White Earth Reservation, where allotments should be made to all of them, except the Red Lake Band, and the Red Lake Band should have their allotments on the Red Lake Reservation; and after ample allotments have been made to all the Indians as aforesaid the rest of the lands should be surveyed and classified into pine and agricultural lands. The pine lands, after being properly appraised, should be sold at public sale to the highest bidder, but at not less than the appraised price. The agricultural lands should be given at \$1 per acre to actual settlers only, under the homestead laws.

The proceeds of the lands thus disposed of should form a permanent interest-bearing fund for all the Chippewa Indians in common, the income and principal of which should inure to all the Chippewa Indians in Minnesota in common.

To carry out these general views your committee have prepared and introduced the accompanying bill (H. R. 7935), entitled "A bill for the relief and civilization of the Chippewa Indians in Minnesota," and recommend the passage of the same.

Mr. KELLY. You say that bill afterwards became the law and is the law?

Mr. BALLINGER. Yes, sir. Now, I want to consider the text of that law and see whether or not the law as enacted was not equally explicit.

Mr. HASTINGS. I did not hear all your argument. Was that act ratified by these various tribes or bands?

Mr. BALLINGER. Yes, sir; and it was practically unanimously assented to by the Red Lake Band.

Mr. HASTINGS. There is no question about that?

Mr. BALLINGER. None whatever.

The CHAIRMAN. Except that Mr. Meritt would not admit it.

Mr. BALLINGER. Now, gentlemen, I will read section 1 of the act of January 14, 1889, and I will ask you gentlemen to follow me closely to see whether or not this act did not provide for allotments to all of the Indians and the sale and disposition of all residue land and the deposit of the funds in the Treasury of the United States to the credit of all the Indians:

That the President of the United States is hereby authorized and directed, within sixty days after the passage of this act, to designate and appoint three commissioners, one of whom shall be a citizen of Minnesota, whose duty it shall be, as soon as practicable after their appointment, to negotiate with all the different bands or tribes of Chippewa Indians in the State of Minnesota for the complete cession and relinquishment in writing of all their title and interest in and to all the reservations of said Indians in the State of Minnesota, except the White Earth and Red Lake Reservations, and to all and so much of these two reservations as in the judgment of said commission is not required to make and fill the allotments required by this and existing acts, and shall not have been reserved by the commissioners for said purposes, for the purposes and upon the terms hereinafter stated; and such cession and relinquishment shall be deemed sufficient as to each of said several reservations, except as to the Red Lake Reservation, if made and assented to in writing by two-thirds of the male adults over eighteen years of age of the band or tribe of Indians occupying and belonging to such reservations, and as to the Red Lake Reservation

the cession and relinquishment shall be deemed sufficient if made and assented to in like manner by two-thirds of the male adults of all the Chippewa Indians in Minnesota; and provided that all agreements therefor shall be approved by the President of the United States before taking effect.

Gentlemen, that language is as clear and unambiguous as it is possible to have the human hand pen it.

Mr. KELLY. Has that law been complied with?

Mr. BALLINGER. Only in part. The act did not become effective until ratified by the Indians. It then became an agreement binding alike upon the United States and the Indians. It is the violation of this agreement that the Indians are complaining of to-day. That law provided that except as to the Red Lakes each of the other bands must by two-thirds of their male members give their assent to the law and the cessions, but as to the Red Lake Reservation two-thirds of all the Indians was sufficient.

Mr. JOHNSON. I thought that was the alternative, that the Red Lakes might not have to vote two-thirds in favor of it, but if two-thirds of all the Red Lakes in Minnesota voted, then the Red Lakes would be bound; is that true?

Mr. BALLINGER. Upon the original construction I would say that you are absolutely correct, but that was not the policy which was followed. It was submitted to the Red Lakes, who assented by practically a unanimous vote.

The CHAIRMAN. Now, I maintain that Mr. Ballinger should go on. Everybody will be given time to make their objections after he makes his statement. I think the committee wants to hear him through.

Mr. BALLINGER. Now, gentlemen, I have the Executive document containing the record of the ratification of that agreement. That law was accepted by the Red Lakes. The acceptance was practically unanimous. Out of 386 male Red Lake adults 325 gave their assent. This appears on page 10 of Executive Document No. 247, Fifty-first Congress, first session, transmitted by President Harrison to Congress with his approval of the agreements. The first place the commission went was to the Red Lake Reservation to negotiate an agreement with the Red Lake Indians, and in the very first column appears the number of male adults and the number giving their assent, as stated by me. Maybe some of you gentlemen would like to examine the original document. Here it is. Now, all the other bands assented to the act of 1889 upon the distinct understanding that out of the lands reserved on the Red Lake Reservation the Indians residing thereon would take their allotments and the remaining land was to be disposed of as the law provided for their common benefit. I will not read the text of the cessions, as the agreements are all set out. I call your attention to the signature rolls, Mississippi Chippewa Indians, White Earth Reservation, Minn., page 35 of the same document. First appears the law in its entirety; then this follows:

And after such explanation and understanding have consented and agreed to said act, and have accepted and ratified the same, and do hereby accept and consent to and ratify the said act, and each and all of the provisions thereof, and do hereby grant, cede, relinquish, and convey to the United States all our right, title, and interest in and to all and so much of said White Earth Reservation as is not embraced in the following-described boundaries.

Now, that was the reservation held for allotment purposes.

And we do also hereby grant, cede, and relinquish to the United States, for the purposes and upon the terms stated in said act, all our right, title, and interest in and

to the lands reserved by us and described in the first article (ending with the words "to the place of beginning") of the treaty with the Chippewas of the Mississippi, proclaimed April 18, 1867 (16 Stat., 719), and also to the Executive addition thereto made and described in an Executive order dated October 29, 1873; and we do also hereby cede and relinquish to the United States all our right, title, and interest in and to all and so much of the Red Lake Reservation as is not required and reserved under the provisions of said act, to make and fill the allotments to the Red Lake Indians in quantity and manner as therein provided.

Those were the terms and conditions upon which the other Indians made their cessions, so that the Red Lake Reservation was to be sold and disposed of after allotments had been made to the Indians then living upon it. Now, let us turn to the Red Lake agreement and see what the Red Lakes agreed to. I will read now from pages 28 and 29 of the same document:

We, the undersigned, being male adult Indians over 18 years of age, of the tribes or bands of Chippewa Indians occupying and belonging to the Red Lake Reservation, in the State of Minnesota, do hereby certify and declare that we have heard read, interpreted, and thoroughly explained to our understanding, the act of Congress approved January 14, 1889, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota" (Public No. 13), which said act is embodied in the foregoing instrument, and after such explanation and understanding, have consented and agreed to said act, and have accepted and ratified the same, and do hereby accept and consent to and ratify the said act, and each and all of the provisions thereof, and do hereby grant, cede, relinquish, and convey to the United States, all our right, title, and interest in and to all and so much of said Red Lake Reservation as is not embraced in the following-described boundaries, to wit:

Then the description of the lands reserved for allotments follows, and then follows this:

For the purposes and upon the terms stated in said act, which said lands embraced within the foregoing boundaries have been reserved by the commissioners appointed under said act and as therein authorized for the purpose of making and filling the allotments therein provided for.

Now, can anything be plainer than that all of the Indians when they signed this agreement and ratified the act of 1889 understood that all of their lands except sufficient to make and fill allotments were ceded to the United States in trust? Section 7 of the law provides for the manner in which the property shall be disposed of. Now, I shall not take up the time of the committee to read from decisions of the courts construing that agreement; but in the case of the United States *v. Mille Lac Band* (229 U. S., 509; 57 L. Ed., 1306), the court held in that the Mille Lac Band had assented to that agreement upon the distinct understanding that they were to share in the funds derived from the sale of property on the other reservation, and that that became binding upon the Government as well as upon the Indians. Gentlemen, this is the crux of this whole controversy to-day: the Chippewa Indians, through their general council, ask the Government of the United States to deal honestly and fairly with them under the plain terms of the agreements they entered into 31 years ago. Can they ask less? Should they be expected to take less? The commission, under the act of 1889, was authorized to make reservations for allotment purposes. On the Red Lake Reservation it reserved about 700,000 acres of land, although there were but 1,103 Indians residing thereon, and the commission, in its report at page 15, states the reason for the reservation of this excess land in these words:

The Red Lake Reservation, which they cede to the United States, contains 3,260,000 acres. The number of Indians occupying the same is 1,168. The boundaries of the diminished reservation, from which allotments to the Red Lake Chippewas are to be made, are as follows:

And then follows a description of the boundaries.

This is larger than they will eventually require, but as there are swamps and other untillable lands therein, it can not be reduced until after survey and allotment shall be made.

That is the reason the commission reserved lands in excess of the amount necessary to make allotments.

Mr. RHODES. Did they not have the right to do that in the light of the law that you just read?

Mr. BALLINGER. I think they did. I think the commission, in the exercise of that discretion, acted wisely, and it certainly acted in the interest of the Indians. Now, Mr. Chairman, the question of the ownership of that Red Lake Reservation has been a mooted question for some time. The general council does not think there is a shadow of doubt about the ownership, but they have endeavored to induce the department to refer that question to its own law officers for an opinion, and that department has refused to——

Mr. KELLY. When you say "they," you mean the general council, do you?

Mr. BALLINGER. Yes; the general council has asked through me to have that question referred, and I now desire to put in the record at this point a letter in which three or four questions were asked by the general council to be referred by the department to the law officers of the Government for a legal opinion that might be used at least in an advisory capacity. One of the questions they asked to have referred was this:

Under the act of January 14, 1889 (25 Stat., 642), and the agreements entered into, and cessions made thereunder, were all the lands on the Red Lake Reservation, not needed to make and fill the allotments to the members of the Red Lake Band provided for in that and existing acts, ceded to the United States in trust to be disposed of by the United States as the act of January 14, 1889, directed, for the benefit of all the Chippewas of Minnesota, or were all of the said lands reserved for the exclusive use and benefit of the members of the Red Lake Band which was only one of 14 bands comprising the Chippewas of Minnesota?

Then as a foot note to that this appears:

This matter is reviewed at length in paragraphs 2, 3, 4, 5, and subparagraphs "d" and "e" of paragraph 6 of the petition filed April 5, 1919, said paragraphs being marked on the inclosed copy with an "x" in red pencil at the commencement of each paragraph.

I desire to read now the answer of the Acting Secretary. This is dated May 22, 1919:

I have considered your letter of the 3rd instant, in which you request that certain questions relating to the affairs of the Chippewa Indians of Minnesota be referred to the solicitor of this department for an opinion. You suggest that such an opinion would be useful for the guidance of the department and of the Congress at the special session. In view of the fact that the department has heretofore, and on careful consideration, adopted its position concerning the points you raise, it is not deemed appropriate at this time to refer them as suggested. Accordingly, your requested is denied.

Yours very truly,

S. G. HAWKINS,
Assistant Secretary.

Mr. Chairman, I want to say in that connection that there has never been an opinion of any legal officer of the department ever rendered upon the question holding that the Red Lake Band was the owner of the Red Lake Reservation.

Mr. KELLY. It was well known to you, however, at the time that you wrote the letter just what decisions had been made, and what construction of the law had been adopted by the department?

Mr. BALLINGER. Yes, sir.

Mr. JOHNSON. Well, then, you were asking a question which you well knew at the time, so far as guiding any legal action that had been taken was concerned, is that true?

Mr. BALLINGER. The action of the department had been taken without any opinion from any source so far as I could find out.

Mr. KELLY. It was presumed you knew what rule of action they were acting upon.

Mr. BALLINGER. I had no doubt in my own mind that if any law officer of the Government ever looked into it that he would sustain the contention I am now asserting. With the permission of the committee, I should like to have these two letters inserted in the record.

The CHAIRMAN. Without objection, it is so ordered.

(The said letters follow:)

MAY 3, 1919.

HON. S. G. HOPKINS,
Assistant Secretary, Department of the Interior,
Washington, D. C.

DEAR MR. SECRETARY: The indications are that Congress will be called in special session in the next 30 days. One of the first matters that will be taken up when Congress reconvenes will be the Indian appropriation bill. Certain legislation pertaining to the Chippewa affairs will be asked by the Indian Bureau. The legislation desired by the bureau affects property rights of great value that are in dispute. They have never been passed upon by any judicial or law officer. I, therefore, suggest and request that three questions pertaining to the Chippewa estate in Minnesota be referred to the solicitor for the Department and an opinion obtained thereon for the information and guidance of Congress and the department prior to the enactment of any further legislation touching this estate. These questions are set out in the petition I filed with you under date of April 5, 1919, and which was printed in full in the Tomahawk of the issue of April 24, 1919, copy of which I inclose. The three questions are as follows:

"First. Under the act of January 14, 1889 (25 Stat., 642), and the agreements entered into, and cessions made, thereunder, were all the lands of the Red Lake Reservation, not needed to make and fill the allotments to the members of the Red Lake Band provided for in that and existing acts, ceded to the United States in trust to be disposed of by the United States as the act of January 14, 1889, directed, for the benefit of all the Chippewas of Minnesota, or were all of said lands reserved for the exclusive use and benefit of the members of the Red Lake Band which was only one of 14 bands comprising the Chippewas of Minnesota?"

(This matter is reviewed at length in paragraphs 2, 3, 4, 5, and subparagraphs "d" and "e," or paragraph 6 of the petition filed April 5, 1919, said paragraphs being marked on the inclosed copy with an "x" in red pencil at the commencement of each paragraph.)

The Indian Bureau has for years treated this property as belonging exclusively to the Red Lake Band. The general council insists that this property belongs to all the Chippewa Indians of Minnesota of which the Red Lake Band forms an integral part. Legislation affecting the title to this property will be sought by the Indian Bureau in the Indian appropriation bill. The question has never heretofore been considered or passed upon by the law officer of the department or by any court.

"Second. Were all the unallotted lands now being held in the Fond du Lac, Grand Portage, Leech Lake, and Nett Lake Reservations ceded to the United States by the agreements entered into under the act of January 14, 1889, in trust, and those reservations abolished, and is there authority of law for the maintenance of said reservations at this time?"

(This is considered in subparagraph "h" of paragraph 6 of the petition filed on April 5, 1919, and is marked "xx" in red pencil on the copy of the Tomahawk inclosed.)

For years the Indian Bureau has been maintaining six reservations among the Chippewas at great annual expense. The general council insists that four of said reservations were ceded to the United States in 1889 to be sold and disposed of and that there has never been any authority of law since that date for their maintenance.

"Third. Does the act of January 14, 1889 (25 Stat., 642), as agreed to by the Chippewas authorize the use of the trust funds accruing thereunder in defraying the expense of the Indian Bureau in the maintenance of its regular governmental agencies in Minnesota?"

(This is covered in subparagraph "i" of paragraph 6 of the petition filed April 5, 1919, said paragraph being marked "xxx" in red pencil on the inclosed copy of the Tomahawk.)

For a number of years the Indian Bureau secured appropriations from Congress of about \$185,000 per annum out of the trust fund of the Indians to be used for their support and civilization and then used the money thus appropriated to defray the expenses of the Indian Bureau in Minnesota. The general council insists that the Indian Bureau has not now and never had any lawful right to use said funds for such a purpose. At the last session of Congress the Senators and Representatives who had the matter in charge became convinced that these funds could not lawfully be appropriated and used for such a purpose, and accordingly struck the entire appropriation from the bill.

If these questions are promptly submitted to the Solicitor with the request that they be made special a legal opinion can be obtained in time for the guidance of the department and Congress in legislation at the special session. The departmental officers should desire an interpretation of the law and the Indians are entitled to it, and I hope the suggestion herein contained will meet with your approval.

In this connection I may properly call your attention to the beneficial effects that followed a reference of another question pertaining to the rights of new-born children to share in the Chippewa estate. The solicitor's decision of February 17, 1919, sustained the contention of the general council, protected about 1,000 minor children against the unauthorized action of the Indian Bureau and saved to them estates worth somewhere between \$1,000 or \$3,000 per head, as well as conferring like benefits upon the children to be born prior to distribution. It ended a controversy of long standing that had engendered much bad feeling on the part of the Indians toward the Indian Bureau and consequently the department, and I believe that the action that I have suggested will promote a better understanding and better relations than have heretofore existed.

Sincerely, yours,

WEBSTER BALLINGER.

DEPARTMENT OF THE INTERIOR,
Washington, May 22, 1919.

Mr. WEBSTER BALLINGER,
Attorney at Law, Washington, D. C.

DEAR Mr. BALLINGER. I have considered your letter of the 3d instant, in which you request that certain questions relating to the affairs of the Chippewa Indians of Minnesota be referred to the solicitor of this department for an opinion. You suggest that such an opinion would be useful for the guidance of the department and of the Congress at the present special session.

In view of the fact that the department has heretofore, and on careful consideration, adopted its position concerning the points you raise, it is not deemed appropriate at this time to refer them as suggested. Accordingly your request is denied.

Yours, very truly,

S. G. HOPKINS,
Assistant Secretary.

Mr. BALLINGER. Now, Mr. Chairman, when the commissioners went to the Indians and submitted the act of January 14, 1889, the Indians at first refused to deal with the Government officers upon the ground that the United States had up to that time failed to fulfill and redeem any treaty it had previously entered into with the Indians. Without reading it here, I am going to ask to have inserted in the record the parts marked on pages 143 and 144 of Executive Document No. 247.

The CHAIRMAN. How long are those?

Mr. BALLINGER. They are short.

The CHAIRMAN. Then I desire to have them read before they are put into the record.

Mr. BALLINGER. Now, this is a statement of one of the Indian chiefs, No-Din-Ah-Quah-Um:

I wish to state that I think that what those commissioners bring is a very heavy load, but I understand it. I have been advised by no one. No one has invited me to touch the pen. What I have said is of my own volition. I should have a very small allotment of land myself, compared with those who have large families. When we heard that our friend would arrive here, we prepared to receive him as he should be received. The emblem that I see floating above us, that is the sign of good feeling, of peace, of friendship. I thoroughly believe that it is the intention to fulfill everything in the agreement. We ought to be guided by the course of our relatives who have accepted this agreement. I myself believe that it is all done in good faith and that the Indians can rely on the fulfillment of everything that has been said. We are told that if we accept the propositions made the matter will be laid before our Great Father in 60 days, at the time when the first snow falls. We call upon the bishop. He is an apostle of Almighty God, and would of course not say otherwise than as God told him. I will ask these commissioners to raise up their hands and say that they will fulfill the arrangements made, if they are serious with us.

Now, turning to the next page:

I insist upon the raising of hands as to what I told the bishop. (The three commissioners then rose and raised their hands in affirmation of the promises made, the chairman saying: "We promise to do all in our power to carry out the understanding.")

Mr. RICE. You have been deceived and disappointed many times, so that I am not surprised that you should put us to this unusual test.

Kay-Ke-Now-Aus-E-Kung (after telling the Indians that the commissioners had given the strongest possible test). The reason we take so much pains in this matter is that the Government has never fully kept its promises to us in the past and I can not be blamed for doing so when I am acting for my own benefit and for my own interest and the benefit and interest of my children.

The **CHAIRMAN.** Now, Mr. Ballinger, will you tell us how all this argument down to the present moment applies to the bill, the legislation that you are proposing here? How does this argument apply to it?

Mr. BALLINGER. Mr. Chairman, the bill introduced by Congressman Ellsworth provides for the disposition of the Red Lake Reservation. The draft of the department is silent upon the Red Lake Reservation and leaves it intact. We want that Red Lake Reservation dealt with in this legislation.

The **CHAIRMAN.** Since the law is very clear, as you have stated, down to the present time, it seems to me that it is more a matter for the Court of Claims than it is for any legislation such as is proposed here. There does not seem to be any need for this legislation, and, as I understand it, legislation can not be created that would determine, merely, something that has already been determined. It is simply a question of somebody deciding whether the law already enacted is being enforced or not, and that does not seem to me to be a congressional question.

Mr. BALLINGER. I read these extracts from this report to show that the Indians had an agreement and that they tried to surround themselves with all the solemnity that is possible.

The **CHAIRMAN.** I am not referring to just the last sections you have been reading, but your whole argument down to the last moment deals with laws which are now on the statute books. If you can enforce those laws you do not need any other laws on the subject.

Mr. BALLINGER. I want to show the committee the messed up condition in which this estate is to-day.

The CHAIRMAN. But still you are not asking for anything which does not already exist in the law.

Mr. BALLINGER. Oh, yes, Mr. Chairman; we are asking that the agreement of 1889 be carried out.

The CHAIRMAN. But that refers only to a law that does exist.

Mr. BALLINGER. But subsequently Congress has attempted by laws to repeal and change and modify the agreement of 1889, without the consent of the Indians and to their injury, and as a result has tied up the Red Lake Reservation so that very few allotments, if any, can be made on that reservation.

The CHAIRMAN. Well, even then it would seem to me if further legislation were brought about, it would simply tangle the matter still more. So long as the fundamental law with reference to the distribution of that property is in existence it seems to me that the whole question is one simply of the enforcement of that law and that that would not be a matter for further legislation.

Mr. ELSTON. You contend that since 1889 Congress by different legislation has altered and changed the act of 1889?

Mr. BALLINGER. Yes, sir.

Mr. ELSTON. And what you want us to do is to provide that the original treaty of 1854 and agreement of 1889 shall be carried out as Congress intended and that all those other acts passed subsequently shall be repealed.

Mr. BALLINGER. Yes, sir.

Mr. KELLY. Well, do you want us to repeal those acts or to exercise the judicial function of regarding them as being void by reason of the fact that the Indians did not agree to them; and then by legislation to change a treaty that was entered into?

Mr. BALLINGER. Let me make that plain. I do not want to be talking here for two days and then find out that there is nothing we can do. The laws that have been passed up to the present time and subsequent to 1889 have all been laws designed and intended to prevent allotments being made to these Indians. Now what we are asking is this, that some law be passed here now that will provide for immediate allotments to those Indians residing on that reservation and that the reservation be opened up and disposed of in accordance with the agreement of 1889.

The CHAIRMAN. Now, do we understand it is your contention that all these acts previous to the one in which you are now interested made no provisions for allotments?

Mr. BALLINGER. There were provisions made in all these previous treaties and agreements.

The CHAIRMAN. But that there have been no allotments made?

Mr. BALLINGER. That there have been no allotments made on the Red Lake Reservation.

The CHAIRMAN. Did the law not provide that there should be allotments?

Mr. BALLINGER. Yes, sir.

The CHAIRMAN. And were not large pieces of land set aside for allotments?

Mr. BALLINGER. Yes, sir.

The CHAIRMAN. Why were not the allotments made?

Mr. BALLINGER. It was claimed that the Indians did not want to take their allotments.

The CHAIRMAN. How do you expect we are going to now create a law which would not do any more than the laws already existing. As I understand it, by the legislation you are now asking, you are simply asking that we do again what Congress has already done.

Mr. BALLINGER. In the law of May 18, 1916, for instance, Congress undertook to completely change the agreement of 1889, and also by the law passed in 1904, they completely changed the provisions of the act of 1889 with reference to allotments and the disposition of that property. Now it is necessary that some legislation be passed that will enable those Indians to get their allotments at this time; otherwise they will sit back in their present condition with a closed reservation of practically a half million acres of land upon which no taxes can be imposed no school nor drainage facilities or anything of that sort.

The CHAIRMAN. I want to ask you one further question. As I stated in the opening of this hearing, a few weeks ago you left this committee with the understanding that all the parties involved in this matter would try to get together, and that you believed an arrangement could be made between those parties and the bureau that would be an approximate agreement. Now, how near have you come to that agreement?

Mr. BALLINGER. Well, we have come, I should say, about two-thirds of the way.

The CHAIRMAN. Well, now, is the other bill in such a condition that it can be agreed upon, or is it in about the same position that the League of Nations seems to be in to-day?

Mr. BALLINGER. I am afraid that it is in about the same position as the League of Nations.

Mr. DALLINGER. I would like to ask this question: Assuming that we do pass this bill reenacting the treaty of 1854 and the act of 1889, and repeal all subsequent legislation that is in any way an interference with that, what guarantee are we going to have that the Indian Bureau will pay any more attention to it than they have, according to your contention, to the acts of 1854 and 1889?

Mr. BALLINGER. I can only say this, that this General Council that the Chippewas have has been functioning since 1916, and since 1916 there have been great reforms brought about in that country, largely through the aid of you gentlemen here. They have been able to furnish you information and you gentlemen have put into execution by reductions in appropriations large reforms, and through the Indian Bureau. Of course, if laws mean nothing, if agreements mean nothing, then we are all uselessly idling away our time. But we take it that at this stage of the case during this era that the laws of Congress do mean something and that they will in the future be enforced.

Mr. RHODES. It is very necessary to my understanding of this matter to know why the department has not made these allotments provided for in the act of 1889—whether it was upon the request of the Indians, or whether it was due to subsequent legislation of Congress, amending or repealing. I think we could clear up this situation and come to a better understanding if Mr. Meritt would just state there—

The CHAIRMAN. I am in sympathy with the suggestion, but Mr. Ballinger has only partially finished his argument, and I think the committee would like to hear his version, his argument. He can

give us what he believes to be the reason why the bureau has not made the allotments. Thereafter his arguments can be rebutted.

Mr. KELLY. That is what I would like to have from Mr. Ballinger. I am sure he is very well acquainted with what he believes to be their reason for that.

The CHAIRMAN. Yes; what I am trying to do now is to get right down to the issue itself.

Mr. KELLY. You are referring to their ostensible reason for blocking you. Now, just give us that.

Mr. BALLINGER. Gentlemen of the committee, I have been trying to lay the basis of the claim of title. I want to make that as clear as I can.

The CHAIRMAN. I think we have that cleared up all right.

Mr. BALLINGER. Now, then, with your permission, I shall endeavor to elucidate each and every one of these questions. I may be going too much into detail, but my clients are very much interested in this, and they are very desirous that you might know exactly the facts as they understand them.

The CHAIRMAN. I would like to have you understand, too, that this committee is very much interested in this whole matter and desires as quickly as possible, but with due consideration, to get right down to the main issues involved here. If you will get right down to the bill itself and tell us what you want and what we can do, that is what we would like.

Mr. COLE. I would like to ask the gentleman why it was that these allotments were not made. Was it because of failure on the part of the department, or was it due to subsequent legislation?

Mr. BALLINGER. It was due to both. It was due in part to the nonaction of the department, and it was due in part to the subsequent legislation of Congress.

The CHAIRMAN. Brought about by whom?

Mr. BALLINGER. Brought about by the department, recommended by the department, and transmitted here.

The CHAIRMAN. In other words, it is your contention that the department thought Congress made a mistake in passing the acts of 1904 and 1916.

Mr. BALLINGER. Yes, sir. Now, gentlemen, with your permission I am going to jump over a little bit on my notes. I would state that the agreement of 1889 has never been carried out in any respect as the agreement itself provides. Not a single provision of it has ever been carried out. Now, I want to state in that connection that in the case of *Minnesota v. Hitchcock*, 185 U. S. 395, 229 U. S. 509, the Supreme Court of the United States held that by that agreement a trust was created that was binding alike upon the United States and the Indians. In that case, and the latter case, the *Mille Lake* case, 229 U. S., Congress had by two resolutions undertaken to dispose of a part of this property in a different way from than was provided for in the agreement of 1889, and the court held that this was in violation of the agreement and gave judgment against the United States for about \$800,000. Now, section 3 of the act of 1889 provided that allotments should be made to the Indians under the general allotment act of 1887. Section 2 of the general allotment act of 1887 provided that if any Indian failed to take his allotment within four years the Secretary was to make an arbitrary allotment to the Indian. So that under the

agreement of 1889 there was no excuse for the department failing to make allotments to the Red Lakes. It is claimed by the department and has been claimed by the department that the Red Lake Indians do not now and never have desired allotments. Mr. Chairman, I have here a large bundle of letters from the department to the Indians who asked for allotments. This letter, similar to all the others, is dated March 10, 1908.

The CHAIRMAN. Just read it.

Mr. BALLINGER (reading):

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 10, 1908.

Subject: Application for allotment.

CHARLES CHABAYEA,
Red Lake, Minn.

MY FRIEND: The office is in receipt of your letter of February 17, 1908, making application for an allotment of the S. $\frac{1}{2}$ of the SE. $\frac{1}{4}$ and lots 3 and 4 of section 12, T. 150, R. 35, Red Lake Indian Reservation, for your son, David Chabayea, and for the N. $\frac{1}{2}$ of the NW. $\frac{1}{4}$ and N. $\frac{1}{2}$ of the NE. $\frac{1}{4}$ of section 33, T. 153, R. 33, for yourself, under the provisions of the act of February 20, 1904 (33 Stat. L., 46).

Your applications have been filed and when the question of giving the Indians of the Red Lake Reservation allotments in severalty shall have been determined will be given consideration.

Very respectfully,

C. F. LARRABEE,
Acting Commissioner.

The other letters are identically the same.

The CHAIRMAN. What period of time do those letters cover?

Mr. BALLINGER. They cover a period from 1901 to 1912.

Mr. RHODES. What I would like to know is whether between this letter dated 1908, March 10, 1908, which is 19 years after the act of 1889 was passed, there was any intervening legislation by Congress changing or amending in any way the act of 1889.

Mr. BALLINGER. Yes, sir.

Mr. RHODES. I mean prior to the writing of this letter in 1908.

Mr. BALLINGER. Yes, sir; here is where the real trouble started. The white population in that section desired a part of this land embraced in the diminished Red Lake Reservation. You remember that the commission reserved nearly 700,000 acres so that the 1,103 Indians residing on the Red Lake Reservation might select as their allotments the best land out of this 700,000 acres. When the allotments were selected, under the agreement of 1889, the residue of the land and the timber thereon was to be sold and the proceeds placed in the Treasury to the credit of all the Chippewa Indians in Minnesota, of which the Indians residing on the Red Lake Reservation constituted only an integral part. In 1902, in response to the demands of the white people, the department sent a representative to the Red Lake Reservation to make an agreement with the Red Lake Band for the cession of a part of the 700,000 acres. The Red Lake Band was not the exclusive owner of the land it was desired to open. The land belonged to all the Chippewa Indians in Minnesota. If it was desired to open this land to entry, under the agreement of 1889, all that was necessary was to make the allotments to the Red Lake Indians and the remaining land automatically became subject to homestead entry. The land the white people desired consisted of 256,000 acres on the west and southwest part of the reservation.

This was the best land for allotment purposes within the 700,000 acres reserved. It was contiguous to towns and to the developed section of the State.

By taking their allotments on this land, the Indians would have been afforded easy access to markets and would have received good agricultural land, land equal to any farming land in the State of Minnesota. The whites desired this land for themselves, and the department fell for their proposition. The representative of the department went to the Red Lake Reservation in 1902 and negotiated an agreement with the Red Lake Band for the cession to the United States of 256,152 acres. The agreement as negotiated provided that the United States should pay \$1,000,000 for the land; that \$250,000 of this amount should be distributed immediately among the members of the Red Lake Band, to the exclusion of all the other Chippewas, and that the remaining \$750,000 should be paid exclusively to the members of the Red Lake Band in 15 annual installments of \$50,000 each. It also provided that the title to the remaining lands on the Red Lake Reservation should be exclusively in the Red Lake Band. The scheme was a vicious one. It first proposed to take the property of all the Chippewas in Minnesota and confer it upon the Red Lake Band exclusively, and, second, it proposed to take the land that was principally valuable for allotment purposes away from the Indians and turn it over to the white people. It was a plain bribe to the Red Lake Indians to violate their agreement entered into in 1889 with the United States and the other Chippewa Indians. The Red Lake Indians readily assented to the proposition, and thereafter, and for the first time, so far as any official record goes, asserted claim to the ownership of all the property on the diminished Red Lake Reservation. That agreement as negotiated appears in 33 Statutes at Large, pages 46, 47.

That agreement as negotiated by the department was transmitted to Congress and by Congress amended, the principal amendments being with reference to the payment for the land ceded. As amended, it was put on as a rider to the Indian appropriation bill approved March 3, 1903, the place where nearly all vicious legislation is sought and obtained, and became a part of that act, as will appear by reference to 32 Statutes at Large, pages 1909-1910. The provision as adopted, however, provided that this provision must be accepted by the Indians before it became operative. It was submitted to the Indians and by them rejected. Not satisfied with this, the department again transmitted the matter to Congress and it was enacted into law by the act of February 20, 1904, 33 Statutes at Large, pages 48, 49 and 50, in modified form. The provisions of the original agreement, however, under which the Red Lake Indians were to receive the entire proceeds derived from the land sold and were to thereafter hold the Red Lake Reservation as their exclusive property, remained intact. By this act on the part of the department a claim, valid in every respect for from two to five million dollars has arisen against the Red Lake Band and the United States, a good portion of which the United States must ultimately pay.

The CHAIRMAN. Just a moment. What do you say about this act of February 20, 1904, in which an agreement was entered into, of which article 4 reads as follows: "It is further agreed that said Indians belonging to said Red Lake Reservation in Minnesota

shall possess their diminished reservation independent of all other lands of the Chippewa tribe of Indians and shall be entitled to all allotments thereunder of 160 acres each of either agricultural or pine lands, the different class of lands to be apportioned as may be equitable and just among the allottees."

Mr. BALLINGER. My answer is that the Red Lake Indians were only one band. They had only a limited interest in the Red Lake Reservation, and they could not acquire title by agreeing with themselves that they should own the reservation absolutely.

The CHAIRMAN. Your contention would be that this agreement is not valid on account of all the Chippewas not being considered in it.

Mr. BALLINGER. Yes, sir. And in addition, Mr. Snyder, that law that you hold in your hand provides for allotments, but no allotments were made.

The CHAIRMAN. It says that allotments may be made.

Mr. BALLINGER. Yes, sir.

Mr. RHODES. I do not have that before me, but does that purport to be an agreement?

The CHAIRMAN. This is an agreement with the Chippewa Indians for the sale of lands ceded.

Mr. RHODES. Does it purport to be an agreement with all the Chippewa Indians or just the Red Lake band?

The CHAIRMAN. Just with the Red Lake band.

Mr. BALLINGER. Now, that Red Lake Reservation was continued intact. No allotments were made to them and these annual payments were made to them. In 1916 the Indian Bureau drafted a provision of law which was sent to Congress and included in the Indian appropriation bill approved May 18, 1916 (39 Stat. 137). This provision starts out with these words, "To carry into effect an act entitled an act for the relief and civilization of the Chippewas in the State of Minnesota, approved January 4, 1889, to provide for the establishment and administration of a forest reserve and for the sale of timber within the Red Lake Reservation, Minnesota; that the following-described lands within the Red Lake Reservation, Minnesota, be and the same are created into a forest reserve to be known as the Red Lake Forest."

Instead of carrying into effect the act of 1889, it cut the heart out of it. After establishing a forest reserve, this provision of law provided:

That no such allotment shall exceed eighty acres nor have more than eighty rods fronting upon a lake shore: *Provided further*, That in case an Indian has improved and cultivated more than eighty acres, his allotment may embrace his improvements to the extent of one hundred and sixty acres.

It will be observed that in order to obtain an allotment within this forest reserve three conditions must be present: First, the land must not contain standing or growing merchantable pine timber; second, it must be suited for the production of agricultural crops; and third, it must be facing on a lake shore. These three limitations exclude allotments within the forest reserve. The Indians reside largely along the south shore of the lake. There are as many as eight families living on a 40-acre tract. They live largely in the forest reserve. On the south side of the lake there is less than 20 miles of land fronting on the lake fit for allotment purposes. As the law limits the frontage of an allotment on the lake shore to 80 rods, not more than 80 allotments

could be made. This land can not be allotted under the act of 1916 as a part of it contains stands of merchantable timber. There is some land on the peninsula, and by that I mean a tongue of land extending from the eastern shores and forming the southern boundary of upper Red Lake and the northern boundary of lower Red Lake, that could be allotted under the act of 1916. It is safe to say that under the limitations contained in that act not more than 20 allotments could be made. Without the limitations contained in that act every Indian on the Red Lake Reservation could be allotted. That act was evidently drawn by some one wholly unfamiliar with physical conditions existing, or with the direct purpose of preventing allotments from being made. The map which I now exhibit to you of the Red Lake Reservation shows the situation I have portrayed.

The act then provided:

That said forest shall be administered by the Secretary of the Interior in accordance with the principles of scientific forestry, with a view to the production of successive timber crops thereon, and he is hereby authorized to sell and manufacture only such standing and growing pine and oak timber as is mature and has ceased to grow, and he is also authorized to sell and manufacture from time to time such other mature and marketable timber as he may deem advisable, and he is further authorized to construct and operate sawmills for the manufacture of the timber into merchantable products and to employ such persons as he shall find necessary to carry out the purposes of the foregoing provisions, including the establishment of nurseries and the purchase of seeds, seedlings, and transplants when needed for reforestation purposes.

Senator Nelson, one of the finest men who ever lived, indorsed this act of 1916 because he believed that in this forest reserve the primeval forest of Minnesota could be preserved and perpetuated. Like everything else that has occurred in Chippewa matters in Minnesota, he was deceived. This provision was in fact obtained through the department by the lumber interests of Minnesota. It was easier to deal with the department for all the timber than it would have been to have dealt with each allottee had the land with the timber on it been allotted. No sooner was the law enacted than the department entered into a contract with the International Lumber Co., the contract being dated November 19, 1917, under which that company was authorized to cut all the merchantable timber within the greater portion of the forest reserve. This practically destroyed the forest. It takes 200 years in that country for a white-pine tree to develop. Under this contract the forest is being denuded of all merchantable timber, only the little and scrub trees remaining. So you gentlemen will see that the creation of this forest reserve was essentially in the interest of the lumberman, and that Senator Nelson and every other man who supported it in the belief that he was preserving the primeval pine forest of Minnesota was deceived. But they had no right to take the Indian property, ceded to the Government in trust under the agreement of 1889, and lock it up in perpetuity, even for the preservation of the primeval forest of Minnesota. That was unfair to the Indian. It was taking his property without compensation. It was a violation of a sacred agreement entered into with the United States.

Mr. JOHNSON. What do you think the object of that was?

Mr. BALLINGER. Why, the alleged reason for the creation of that was that there was a heavy stand of timber on the Red Lake Reservation, and the department claimed it would not be fair to allow the Indians to come in there and take allotments, as some of them would

get more valuable allotments than the others. This right was guaranteed to them by the agreement of 1889. But in the allotment of lands all the Chippewas of Minnesota have had the privilege of selecting and taking timber lands. There are still valuable stands of timber on the Red Lake Reservation, and the general council says there is no reason why the Red Lakes that have timber upon lands they desire for allotments should not have the benefit of the timber. The real reason, in my mind, was that by the establishment of that forest reserve it perpetuated the Indian Bureau in Minnesota and enabled its employees to perpetuate their jobs.

Mr. ELSTON. That was within the area of the 700,000 acres?

Mr. BALLINGER. Yes, sir.

Mr. ELSTON. What became of the area outside of that?

Mr. BALLINGER. Two hundred and fifty-six thousand acres were ceded under the act of 1904 and the rest is being held.

Mr. ELSTON. What became of the proceeds that came from the sale of the 2,000,000 acres cut off the Red Lake Reservation under the act of 1889?

Mr. BALLINGER. That is in the Treasury of the United States to the credit of all the Indians.

Mr. ELSTON. Do the Red Lakes make any claim to any portion of that fund?

Mr. BALLINGER. Oh, yes.

Mr. ELSTON. They make no claim as to the land in excess of the 700,000 acres?

Mr. BALLINGER. Only in common with all the other Chippewas.

Mr. ELSTON. So that to some extent a portion of the act of 1889 has been carried into effect?

The CHAIRMAN. But they do claim a hundred thousand dollar payments.

Mr. ELSTON. That million dollar payment, or \$250,000 a year.

The CHAIRMAN. \$250,000, with \$100,000 per annum.

Mr. ELSTON. But those were not payments outside of this 700,000-acre reservation for allotment purposes—this million dollar payment.

Mr. BALLINGER. That million dollars was more than a million dollars, because under the agreement as changed by Congress it brought more than a million dollars.

The CHAIRMAN. But the Red Lake Indians got every dollar of that money?

Mr. BALLINGER. Every dollar of that has been paid to the Red Lakes.

Mr. ELSTON. Where was that, outside of the 700,000 acres?

Mr. BALLINGER. Within.

Mr. ELSTON. That is what I thought. It was within the 700,000 acres. The Red Lake area outside of that was over 2,000,000 acres, and that has all been sold for the common use of the Chippewas. That is now in the United States Treasury, and the Red Lakes do not claim any peculiar interest in that, except an interest in common; is that true?

Mr. BALLINGER. Yes, sir.

Mr. RHODES. Was it sold prior to this act of 1904, this excess land in excess of the 700,000 acres inquired about by Mr. Elston?

Mr. BALLINGER. Yes, sir; under the agreement of 1889. Prior to this act of 1904 no one ever heard of the Red Lake Indians asserting a claim until this agreement was negotiated with the Red Lake Indians in 1902.

Mr. ELSTON. Well, now, if we have the jurisdictional bill here enacted, will the Red Lakes come back and claim a portion of the funds raised by sale of the lands in excess of the 700,000 acres which is now claimed by all the Chippewas in common?

Mr. BALLINGER. No, sir; the Chippewas insist that they are entitled to their share per capita of the proceeds of all sales of land on and off the Red Lake Reservation.

Mr. ELSTON. They are basing their claim as to the 700,000 acres on a different ground entirely from what they claim an interest in the excess over the 700,000 acres? That, they say, they hold in common.

Mr. BALLINGER. I might say that the basis of the Red Lakes' claim, as now asserted, as I understand it, is that the commission reserved 700,000 for allotment purposes.

Mr. ELSTON. That they owned it originally from the treaty of 1854.

Mr. BALLINGER. They claim now that they did have some interest in the land prior to that time, but by their own agreement in 1889 they ceded everything in the Red Lake Reservation that was not needed for allotment purposes.

Mr. ELSTON. I can easily see where there is some broad question about the 700,000 acres.

Mr. KELLY. Do you claim that the proceeds even of this 700,000 acres should go to the common fund, anything sold outside their allotments to those Indians?

Mr. BALLINGER. Absolutely, and the commission in its report states that the very object of reserving the 700,000 acres of land was that much of it was swamp land and that the commission desired to reserve enough land so that the Indians could select suitable land for allotment purposes. All of the other reservations with the exception of the White Earth Reservation were ceded in their entirety, sold and the proceeds placed in the Treasury for the common benefit of all the Chippewas, including the Red Lakes.

Mr. KELLY. But the limited area reserved for allotments was in excess of an amount sufficient to make individual allotments?

Mr. BALLINGER. Yes, sir.

Mr. KELLY. On the basis of what would be an ideal allotment of 160 acres, would you say?

Mr. BALLINGER. Under the agreement of 1889 it was contemplated and provided that all the Indians other than those residing on the White Earth Reservation and the Red Lake Reservation were to be moved to the White Earth Reservation and then allotted.

Mr. RHODES. Have they adopted either an aggregate area, or have they the same rule as the bureau is now trying to—

Mr. BALLINGER. On the White Earth Reservation, after the allotments have been completed.

Mr. RHODES. Just a moment there. If there is anything left on the White Earth Reservation, after the allotments are made, there is no contention that that is the land of the White Earths?

Mr. BALLINGER. None whatever. It is the common property of all the Chippewas, including the Red Lakes.

Mr. RHODES. How were these allotments made on the White Earth Reservation, were they given a certain number of acres, or were some given more? In other words, were they given 160 acres, 240 acres, or did they all get the same?

Mr. BALLINGER. On the White Earth Reservation they all got the same allotment. They each received 80 acres of land. In 1904 Congressman Steenerson introduced a bill that was passed by Congress which provided that the Indians should be given 160 acres of land or 80 acres additional. Now, I can well understand how there was some difference of opinion. The General Allotment act of 1887 provided for allotments —

To each head of a family, one-quarter of a section; to each single person over eighteen years of age, one-eighth of a section; to each orphan child under eighteen years of age, one-eighth of a section; and to each other single person under eighteen years now living, or who may be born prior to the date of the order of the President directing an allotment of the lands embraced in any reservation, one-sixteenth of a section.

In negotiating the agreements under the act of 1889 the Indians understood that each man, woman, and child was to receive 160 acres, and not merely the heads of families. I think the explanation of the commission to the Indians of the act of 1889 clearly justified them in reaching this conclusion. As a matter of fact it was an erroneous construction of the General Allotment act. In order to deal fairly with these people Mr. Steenerson introduced the bill that became the act of 1904 (act of Apr. 28, 1904, 33 Stats., 539), authorizing allotments of 160 acres, and the bill you have under consideration authorizes allotments of 160 acres to the Red Lake Indians and to any others that may be enrolled.

The CHAIRMAN. Now, a few moments ago you stated that the reason the forest reserve was created by the bureau was to perpetuate the Indian Bureau. You had reference to perpetuating the activities of the Indian Bureau in that particular section?

Mr. BALLINGER. Precisely. Of course, not here in Washington—I meant the activities of the Indian Bureau in Minnesota.

The CHAIRMAN. Well, now, if you should get all that you desire to get in this legislation, how long in your judgment do you think it would take to get the activities of the Indian Bureau out of that section?

Mr. BALLINGER. I think, Mr. Chairman, if the Ellsworth bill were adopted as introduced, with some slight changes in phraseology, and that is all the Indian Office has asked with the exception of this Red Lake situation, that the Indian Bureau would cease to function in Minnesota within the next six or seven years. I think they would be at an end.

Now, I want to call attention further to this act of 1916. It provided for the sale of timber, and provided for the deposit of the funds derived from the sale of timber and otherwise in the Treasury of the United States to the credit of the Red Lake Indians, not to the credit of the Chippewas of Minnesota.

Mr. RHODES. But that was within the 700,000 acre reservation?

Mr. BALLINGER. Yes, and it provided that it should draw interest at the rate of 4 per cent per annum. The agreement of 1889 provided that the proceeds derived from the Red Lake property should be deposited in the Treasury to the credit of "all the Chippewas of Minnesota" and should draw interest at the rate of 5 per cent per annum;

and the Indians there have a claim not only for the principal sum but the difference of 1 per cent in interest. The proceeds are now in the Treasury of the United States but unless legislation is passed that will refer this question to a court and the funds are held intact until the court can decide the ownership, those funds will probably be distributed among the Red Lakes, and further claims against the United States will accrue.

Now, Mr. Chairman, there is a matter that will come before this committee, to which I desire to direct your attention. It will come either before this committee, or before some other committee of the House. Some years ago under a resolution of Congress the War Department made an investigation as to a feasible plan for draining the lands contiguous to the Red Lake River. The Red Lake River has its mouth in the southwest corner of Lower Red Lake and flows down to and empties into the Red River of the North. The plan is to drain the lands contiguous to the Red Lake River. The white people along that river are intensely interested in that drainage plan, and according to this report (H. Rep. No. 61, 66th Cong., 1st sess.), about 29 sections of Indian lands would be directly affected and directly drained by that project, at a cost to the Indians of \$236,800; and then under the plan submitted there would be a further annual charge against the Indians of about \$3,650.

That would be pretty expensive drainage. There would be about 115 Indians who could be allotted on those 29 sections of land. Now, it is true that the rest of the lands, those lands up here, and aggregating about 200,000 acres will be more or less affected by that drainage plan, as it proposes to lower Red Lake 4 feet, but the effect upon those lands is purely problematical. I desire to call your attention to that matter so that when that plan comes up later in Congress this committee, whether it comes before it or one of the other committees of the House, can at least look into it with care. I assert that the plan as proposed is largely for the benefit of the white man at the expense of the Indian.

Mr. ELSTON. How deep is that lake now?

Mr. BALLINGER. Probably 40 feet at the deepest point. Now, Mr. Chairman, I want to tell the committee the appeals that were made to me when I was on the Red Lake Reservation in July of this last year. Several of the younger members of the tribe came to me and asked me if something could not be done for them. They explained that there was no way by which they could take allotments and go on them and improve them with any certainty that the allotments would ultimately be made to them. They explained that they could go off of the reservation and secure employment at wages ranging from five to ten dollars per day, but if they did so they deemed it best to take their families with them, and if they took their families and remained off of their reservation in permanent employment when the allotments were made they would probably lose their allotments.

If they remained on the reservation there would be little to do but to obtain employment part of the year at a little sawmill, and in the winter season in a logging camp; and they said, "We are tied and helpless. We can neither benefit our condition nor leave, and we are squandering our time and our lives. Can not something be done that will enable us to get a fair and decent sort of living as men and

women?" Now that is the condition on the Red Lake Reservation, and the general council asks this committee to take some step that will enable those people to get an honest and square start in life and to own the land upon which they are now living or to secure land that will be allotted to them and that will be theirs and upon which they can go and make permanent improvements; and if they want to go elsewhere and obtain employment to better their conditions they can do so with certainty that they will not lose their tribal inheritance and the inheritance of their children. At the present time schools can not be established within that reservation and maintained, although the State has generously afforded teachers at Red Lake, and a public school is maintained at Red Lake and one at Redby. The latter is an open town site, but the rest of the reservation is locked up and there can be no development of it until the reservation is opened.

Now, Mr. Chairman, I pass to the question of forest reserves.

Under the act of 1889, all of the lands except so much of the White Earth and Red Lake Reservations as were not needed for allotment purposes were ceded to the United States to be sold and disposed of. In 1902, under the act of June 27, 1902, 32 Stats., 402-403, the Forestry Bureau of the United States conceived the idea that up around Cass Lake was a desirable place for a forest reserve. Appeal was made to Congress under which 200,000 acres of valuable timberland was authorized to be reserved from disposition. With the permission of the committee I will insert the provisions of the law in the bill.

The CHAIRMAN. If there is no objection it is so ordered.

Mr. BALLINGER. The said law provided:

Provided further, That in cutting the timber on two hundred thousand acres of the pine lands, to be selected as soon as practicable by the forester of the Department of Agriculture, with the approval of the Secretary of the Interior, on the following reservations, to wit, Chippewas of the Mississippi, Leech Lake, Cass Lake, and Winnebigoishish, which said lands so selected shall be known and hereinafter described as "forestry lands," the purchaser shall be required to leave standing five per centum of the pine timber thereon for the purpose of reforestation, as hereinafter provided, said five per centum to be selected and reserved in such manner and under such rules and regulations as may be prescribed by the forester of the Department of Agriculture and approved by the Secretary of the Interior: *Provided further*, That there shall be reserved from sale or settlement the timber and land on the islands in Cass Lake and in Leech Lake, and not less than one hundred and sixty acres at the extremity of Sugar Point on Leech Lake, and the peninsula known as Pine Point, on which the new Leech Lake Agency is now located, which peninsula approximates seven thousand acres, and in addition thereto ten sections in area on said reservations last aforesaid, to be selected by the forester of the Department of Agriculture, with the approval of the Secretary of the Interior, in lots not less than three hundred and twenty acres each in contiguous areas, and nothing herein contained shall interfere with the allotments to the Indians heretofore and hereafter made. The islands in Cass and Leech Lakes and the land reserved at Sugar Point and Pine Point Peninsula shall remain as Indian land under the control of the Department of the Interior.

This, like all such legislation, was the entering wedge to be followed later by more definite legislation. The matter rested until 1908 when Congress passed the act of May 23, 1908, 35 Stat., p. 268, creating the Forest Reserve and giving it the name of the Minnesota National Forest Reserve. By this act the lands of the Indians were taken again for the benefit of the whites as the forest reserve was for the benefit of the whites who desired summer recreation grounds and resorts within its limits.

I want to show to the committee a map of that national forest reserve. The law authorized them to take in 200,000 acres. They

threw the boundaries of that forest reserve around a vast area, over 500,000 acres. The lands marked in red on this map are Indian lands. Mr. Chairman, these Indian allotments might almost as well be in the heart of Africa. That forest reserve is inaccessible and the Indians allotted within its area are unable to utilize their lands, and the result is that they in part are the Indians that it is necessary for you to make some little appropriation annually to support and civilize until after—

The CHAIRMAN. How many of them are there?

Mr. BALLINGER. I can not state offhand, but there are probably 400 or 500. Now, this color here, this light bronze, shows the swamp lands that have been patented to or applied for by the State. I am coming to that a little later in my argument, but I call your attention to it now and you will observe that a good portion of those lands are classified as swamp that have been applied for or patented to the State of Minnesota.

The part marked here in yellow is agricultural land. That land can not at the present time be homesteaded or utilized, and there is a large area of that. This part marked in green is the unsold pine lands. You see a little of that around here. The part here marked in blue is relinquished Indian allotments, and the white lands appearing along there is the land that was forest land, but has been cut. Now, gentlemen, there are less than a hundred million feet of timber in that forest reserve yet to be cut, and yet that vast area of land is lying to-day dormant and idle, and has for 31 years, or nearly that, as the result of the creation of a forest reserve there that is of no benefit to anyone.

The CHAIRMAN. Wherein does this legislation affect that?

Mr. BALLINGER. This legislation provides for the sale and disposition of that forest reserve, as provided for in the agreements of 1889.

Mr. MERITT. There is no controversy on that point.

Mr. BALLINGER. But the matter may come up. Now, if you have the House hearings of the last session I am going to ask you to turn to page 286.

The CHAIRMAN. You can read it.

Mr. BALLINGER. Bear in mind that under the agreement of 1889 all the lands outside of the White Earth and Red Lake Reservations were ceded to the United States, and yet 31 years later we find included in forest reservations, upon which agencies are being maintained in Minnesota; 39,567 acres at Fond du Lac Reservation; 24,191 acres, Grand Portage Reservation; 105,047 acres, Leech Lake Reservation; 62,513 acres, Nett Lake Reservation.

Now, let me on this map give you an idea of where these reservations are situated. Here is the Nett Lake Reservation; here is the Red Lake Reservation.

The CHAIRMAN. How far apart are they?

Mr. BALLINGER. The Nett Lake Reservation and the Red Lake Reservation are about 150 miles apart, I should say, roughly. The Leech Lake Reservation is down here. The White Earth Reservation is here.

The CHAIRMAN. Will you state the approximate distances in mileage?

Mr. BALLINGER. Mr. Morrison, you are more familiar with distances in that country than I am. Commence with Grand Portage down to Nett Lake.

Mr. MORRISON. Well, now, let me see just how to get at that. Probably the way you would go, some 200 miles from Nett Lake down. Down from Cloquet it is one hundred and twenty and odd miles from Nett Lake down. From Cloquet to Leech Lake it is a hundred miles. From Leech Lake to White Earth, I mean where the agency is, that would be something like 70 miles; then from there to Red Lake it is 105 miles.

The CHAIRMAN. There is an agency at each one of those points?

Mr. BALLINGER. There is an agency at each one of those points. Now, Mr. Chairman, these forest reserves and these Indian reservations have strangled towns; have all been maintained in violation of law. They have prevented the establishment of schools and drainage districts. They have prevented the construction of roads and they have locked up and prevented the development of vast areas of the State, depriving the Indians of all opportunities of advancement, which was the prime object of the agreements entered into under the act of 1889. By the unauthorized retention of these reservations four agencies have been established and maintained for more than 20 years, contrary to law, at an annual cost to the Chippewa Indians of Minnesota of more than \$75,000 per annum, and the money arbitrarily taken from their trust funds in absolute violation of their agreements with the United States. The Annual Report of the Commissioner of Indian Affairs for the fiscal year ending June 30, 1919, gives the claimed Indian population of the four reservations upon which these agencies have been unlawfully maintained, the number of agency employees, and the salaries paid them, as follows:

Reservation.	Population.	Number of agency employees.	Total salaries paid agency employees.
Fond du Lac.....	1,074	14	\$8,960
Leech Lake.....	1,738	40	29,794
Nett Lake.....	590	10	5,160
Grand Portage.....			

Among these employees I find Indian police. These Indian police have no police authority. They are used merely as messenger boys but are carried as Indian police. These are ceded reservations and no Indian policeman has the power to make an arrest upon them, yet I find all these overhead charges and expense on reservations that were ceded 31 years ago. I observe that the number of Indians, the population of the Indians, appears in the report, and it has not been revised for a good many years. There is probably about 60 per cent of the Indians enumerated in these reports still living in these localities. These employees have no connection with any schools, and, in addition to the salaries paid, large sums were expended annually from the appropriations for support and civilization of the Chippewa Indians for the comfort of these employees, such as household furnishings, food, and so on. Every dollar of this money has been expended for the maintenance of reservations and agencies in defiance of the agreements of 1889, and by the unlawful maintenance of these reservations the Indians have been pauperized and held back and have been

compelled to accept rations at the hands of the tribe. They have been kept in ignorance, their morals undermined, and their manhood and womanhood impaired.

Mr. HASTINGS. May I ask whether the rolls have been completed with respect to the bands?

Mr. BALLINGER. Substantially so. The commission made the rolls, and the law did not require approval by the department.

Mr. HASTINGS. They do not require approval?

Mr. BALLINGER. But it is necessary to bring those rolls down so as to include those entitled to payments. The newborns come in, Mr. Hastings, and then there are a few entitled to allotments whose cases were not acted upon by the commission. This bill gives the Secretary power to add their names.

Mr. HASTINGS. Do all those bands of Chippewas speak the same language?

Mr. BALLINGER. Oh, yes. Now, I shall pass over the question of the expenses of the schools and will deal with that later. I want to come to the question of swamp lands. There is a provision in the jurisdictional bill to recover back lands from the State of Minnesota that have been improperly patented to the State and remain undisposed of, and also lands that have been applied for by the State, to determine the title of the State to those lands.

Section 4 of the agreement of 1889 provided for the classification of ceded lands into pine lands, and then provided that all other lands other than pine lands were for the purposes of this agreement termed "agricultural lands." And then it provided for the manner of disposition of agricultural lands. So that under that agreement there could have been only two classifications, one pine lands and the other agricultural lands. When the Surveyor General came to making surveys of the ceded lands, he followed the ordinary surveys of lands of the United States and classified and mapped all swamp lands as swamp lands—the lands that were pine lands were classified and mapped as pine lands and the lands that were agricultural lands were classified and mapped as agricultural lands. There was no authority under the act of 1889 for any classification of swamp lands. The result was that the State immediately asserted title or made claim to the land that was mapped as swamp land, and after some controversy the department proceeded to issue patents to the State for a very large amount of that land, how much I have been unable to ascertain, but it is somewhere between two and seven hundred thousand acres of land.

Then, in 1909, the Indians protested against the issuance of further patents to the State upon three grounds: First, that much of the land patented and applied for by the State was not in fact swamp land. Second, that the State was not entitled to further grants, as the State was not complying with the requirements of the act of March 12, 1860, relative to the use of the funds derived from the disposition of the lands patented to it in that the funds were not being used for the purposes of draining swamp lands within the State. And, third, upon the ground that no rights of the State attached to any of the ceded lands under the act of March 12, 1860, as none of the ceded lands were in fact public lands.

Mr. ELSTON. Is there any dispute about this swamp land?

Mr. MERITT. There are some complications in connection with the swamp land. We are quite willing to have that come up for adjudication.

Mr. BALLINGER. Well, that resulted in an order of suspension being issued in 1913, and the order of suspension and the reason therefor I am going to explain. I will ask that these papers be included in the record.

The CHAIRMAN. Let me see them.

Mr. BALLINGER. Yes, sir.

The CHAIRMAN. What do you propose to show by this?

Mr. BALLINGER. That merely shows the order of suspension, and since that order no patents have been issued.

The CHAIRMAN. Do you want that printed?

Mr. BALLINGER. Yes, sir; in the record.

The CHAIRMAN. It is so ordered.

(The said order of suspension follows:)

DEPARTMENT OF THE INTERIOR,
Washington, November 19, 1913.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

SIR: I inclose herewith for your information, copy of letter of even date, addressed to the Governor of Minnesota, with reference to the swamp-land grant to that State. Your attention is particularly directed to that portion of the letter which advises the State that the issuance of further patents to it for swamp lands has been suspended.

Respectfully,

A. A. JONES,
First Assistant Secretary.

DEPARTMENT OF THE INTERIOR,
Washington, November 19, 1913.

HON. ADOLPH O. EBERHART,

Governor of Minnesota, St. Paul, Minn.

MY DEAR GOVERNOR: Referring to our conversation of recent date and to a communication filed in this department by the Northern Minnesota Development Association, with reference to the alleged failure of the State of Minnesota to comply with the conditions of the swamp-land act of September 28, 1850 (9 Stat., 519), as extended by the act of March 12, 1860 (12 Stat., 3), I have to direct attention to the fact that the act of September 28, 1850, supra, recites that the purpose of the grant is to enable the several States "to construct the necessary levees and drains to reclaim the swamp and overflowed lands thereon * * *," and that section 2 of the act expressly requires "that the proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied, exclusively, as far as necessary, to the purpose of reclaiming said lands by means of said levees and drains aforesaid."

The Northern Minnesota Development Association alleges that the State of Minnesota has ignored the foregoing conditions of the grant and diverted the proceeds of the land granted into a general school fund, failing to make provision for the reclamation and drainage of swamp and overflowed lands.

Section 2 of article 8 of the constitution of the State of Minnesota provides that one-half of the proceeds of the principal of all funds derived from sale of swamp lands shall be appropriated to the common school fund of the State and the remaining one-half to its educational and charitable institutions. So far as can be ascertained from an examination of the statutes of Minnesota no provision has been made by the State for the devotion of the proceeds of the sales of swamp lands or by direct appropriation in kind for reclamation work.

I am advised that a considerable area of swamp lands in Minnesota, said to approximate 500,000 acres, still remains unpatented, and in view of the law and the conditions hereinbefore recited, I feel it my duty to suspend the issuance of further patents under the swamp-land grant to the State of Minnesota. In the meantime, in order that the department may be fully advised as to the situation and be enabled to determine what course should be pursued in the matter, the State is hereby requested to submit a full showing as to whether or not it has complied with the terms and con-

ditions of the swamp-land grant, and if not, what steps it proposes to take looking to the performance of the trust imposed upon it in the granting act and assumed by the State when it accepted patents for lands therein granted.

Hoping to be advised that the State is ready and willing to carry out the conditions of the trust, I remain,

Very truly, yours,

A. A. JONES,
First Assistant Secretary.

The reason stated in the order of suspension is not the real ground for the order. The record is being treated as confidential, and therefore the statement I am now about to make is based upon the best information I have been able to obtain. A mistake was made in the survey of the ceded lands under the treaty of 1855 which resulted in somewhere between 200,000 and 1,000,000 acres of the Indian lands that were not ceded by that treaty being thrown open to entry.

Within this area the State of Minnesota erroneously obtained swamp lands under patents from the United States. The Land Office, prior to 1913, reported to the Secretary of the Interior that the State had erroneously obtained title to a large quantity of lands within that area to which it was not entitled and demanded either the restitution of that land or that the amount the State had received to which it was not entitled should be deducted from any amount the State was found by the department to be entitled to under the agreement of 1889. Here the department proposed that the State should make restitution for its ill-gotten gain, but no attempt was made to restore to the Indians or to compensate them for the lands which the Government had acquired as the result of the erroneous surveys under the treaty of 1855, and which had been disposed of. This, I am told from reliable sources, is the real cause for the issuance of the suspension order in 1913. I attach hereto a memorandum of decisions rendered by the department and citation by file numbers of papers filed with the Secretary's Office by the Land Office relating to this controversy. If any of the members of this committee desire to obtain the exact facts they can probably obtain the record from the Solicitor's Office, access to which has been denied to the general council, and thereby obtain the exact facts.

Red Lake lands: Letter to Secretary, February 17, 1914. Appeal to Secretary, May 1, 1915. 518835 and 522509.

Mille Lac lands: August 19, 1914.

Report on Minnesota swamp lands: To department, July 6, 1915. 377661.

Swamp grant—State of Minnesota: Decision of Secretary of Interior, Public Lands 32, page 65.

Swamp land grant—State of Minnesota: 22, decision of department of Interior relating to Public Lands, volume 22, page 388. Swamp land grant, Minnesota, Forest Reserve, 25, decision, Attorney General, page 626. Decision of department of Interior relating to public lands, volume 22, page 301. Letter of A. A. Jones, assistant secretary to Commissioner of General Land Office, dated November 19, 1913, directing suspension of further issuance of patents to State for swamp lands.

It is to correct this error in the survey under the treaty of 1855, as well as to correct other errors in surveys, that provision is made in the draft of the bill submitted by the department for a resurvey.

In 1915-16 the General Council instructed its attorney to take this matter up with the department and secure final action. Petitions and briefs were filed with the department which resulted in the department taking the position, without formal decision being ren-

dered, that the patents issued to the State had been erroneously issued. Correspondence with the State ensued, the department endeavoring to secure an adjustment by the voluntary return of the ceded lands by the State. This the State refused to do, and then the department assumed the position of forcing the State to commence proceedings in court to compel the department to issue patents for the remaining lands applied for. This the State has failed to do. Within the last year a suit has been prepared by the Department of Justice affecting a part of the swamp lands on the White Earth Reservation patented to the State, in which suit it is sought to test the question. The filing of that suit has been deferred pending the enactment of a general jurisdictional bill that will put the entire question before the court for decision and thus clean up the entire controversy in one suit. In the jurisdictional bill provision is made for such a suit.

Mr. ELSTON. Wherein does your contention in regard to this swamp land differ from the ruling of the department?

Mr. BALLINGER. We are in accord upon that, but provision is contained in the bill under consideration for a reference of this matter to a court for final decision. The report of the department on the bill contains no reference to this matter, and I am calling it to your attention so that when you gentlemen take up the bill you may understand the matter.

Under the act of 1889 there were many mistakes made in the scaling of timber and the classification of the lands. Much land that was in fact pine land was classified as agricultural land, and I have the abstracts showing that the timber on those lands classed as agricultural lands later sold anywhere from \$1,000 to \$5,000 on the 160 acres, the timber rights alone, and yet that land was classified as agricultural land.

Mr. ELSTON. Is that the land that was sold to homesteaders?

Mr. BALLINGER. Yes, sir.

Mr. ELSTON. At \$1.25 per acre to homesteaders?

Mr. BALLINGER. Yes, sir; in the first instance the timber upon the land as shown by the official reports of the department and of Congress was scheduled as containing about one-third of the actual amount of timber that was subsequently found upon the land, and under the act of 1889 that was put up and sold in the tree standing. It is a singular coincidence that in most of those instances where the scaling of timber was grossly inadequate, where the reports show that there was three or four times the amount of timber stated in the governmental estimates, those tracts were the first tracts that were put up and sold, which indicates conclusively that the officers of the Government and the timbermen up there knew what tracts had been improperly scaled. As the result of the timber administration, about which I shall not go into detail, the Indians lost several millions of dollars, and these frauds were the primary, though not the instant cause, of the uprising by the Indians in 1898, and this insurrection among the Indians resulted in a committee of Congress going out there to investigate conditions. Investigations were also made by agents of the department. The departmental report appears in House Document No. 85, Fifty-fifth Con-

gress, first session, and shows the extent of the frauds that were perpetrated upon the Indians, and those reports resulted in a change in the manner of disposing of the timber as provided for in the act of 1889, by a provision included in the act of June 27, 1902, which authorized the sale of timber on bank scales instead of standing. Prior to the act of 1902 the Indians lost several millions of dollars of which amount, Mr. Chairman, it will be impossible for them ever to recover against the United States any considerable portion. And it was because of those losses and because of the erroneous surveys that were made that the Indians in the bill introduced by Congressman Ellsworth have asked Congress to stand the expense of the further administration of this estate. They can not hope ever to recover in a court because they can not get the clear proof of actual fraud sufficient to maintain their claim, and yet the reports of Congress and the reports of the department show conclusively that the Indians lost heavily in those transactions.

Mr. HASTINGS. What part of that Ellsworth bill gives Congress jurisdiction in the matter of checking that proposition?

Mr. BALLINGER. Section 2 provides:

SEC. 2. That as compensation for losses sustained by the Chippewa Indians of Minnesota for the failure to sell and dispose of the lands ceded to the United States in trust under the provisions of the act of January 14, 1889, and subsequently included in forest and other reserve contrary to the intent of said act, the Secretary of the Interior is hereby directed to proceed and dispose of all merchantable timber on any such lands ceded to the United States in trust under said act of January 14, 1889, remaining undisposed of, including the timber on any and all of said lands belonging to the Chippewas and within the limits of any Indian reservation, said timber to be sold under rules and regulations to be prescribed by the Secretary of the Interior, which shall conform so far as practicable to the provisions of the act of June 27, 1902 (32 Stat. at L., p. 400): *Provided*, That nothing herein contained shall invalidate or impair any existing valid contract for the cutting or sale of any of said timber: *Provided further*, That where any such contract shall include the timber upon any land allotted under this act, the proceeds of the timber cut from any such allotted land, after the allotment is made, shall be paid to the allottees under the same conditions as other payments are made under this act.

The CHAIRMAN. Gentlemen, the time agreed upon to recess has arrived. We will recess until tomorrow morning at 10 o'clock.
(The committee thereupon adjourned.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Tuesday, March 9, 1920.

The committee on this day met, Mr. Homer P. Snyder (chairman) presiding.

The CHAIRMAN. Will the committee come to order? We will resume the hearing and Mr. Ballinger will proceed with his argument.

Mr. BALLINGER. Mr. Chairman, yesterday I promised to submit a copy of the authorization under which I appear here. I now submit that together with the entire record of the general council relating to the authorization. I also have with me a certified copy of the records of the general council, and they can be compared if anyone so desires.

The CHAIRMAN. They will be inserted in the record at the proper place.

(The copy of the record referred to follows:)

MINUTES OF THE SEVENTH ANNUAL MEETING OF THE GENERAL COUNCIL OF MINNESOTA CHIPPEWAS HELD AT CASS LAKE, MINN., COMMENCING JULY 8, 1919.

* * * * *

RESOLUTION NO. 6.

Resolved by the Chippewa Indians of Minnesota in General Council assembled, That Webster Ballinger, attorney at law, of Washington, D. C., be, and he hereby is, appointed attorney of the general council for a period of one year with full authority to represent the general council and the committees thereof in all matters pertaining to the affairs of the Chippewa Indians of Minnesota, his compensation to be fixed by the executive committee of the general council, and to be paid, so far as practicable, out of the appropriation made for the support of the general council.

* * * * *

EVENING SESSION.

CASS LAKE, MINN., July 9, 1919.

Meeting called to order by the chairman, John W. Carl, in the Rex Theater, at 7.30 p. m.

* * * * *

Resolution No. 6 was again read as set out on page 12 of these minutes. After explanations made by Mr. Frank D. Beaulieu in reference to the resolution, Mr. J. A. Morrison moved to adopt the resolution as read. Motion seconded by a voice.

Mr. Cajune offered an amendment to resolution No. 6 that the executive committee be stricken from the resolution and in lieu thereof to empower the council to set the amount of the compensation of Webster Ballinger. The amendment was seconded by Mr. Paul Sheehy. A prolonged discussion followed, after which Mr. Cajune withdrew his amendment, also the second was withdrawn.

A vote on this resolution was taken by raising the right hand. Result of the vote was 64 to 1 in favor of the resolution.

Mr. Frank D. Beaulieu moves to reconsider the vote, seconded by John⁺ Laundry, and the motion carried by a vote of 63 to 4.

Mr. Frank D. Beaulieu demands yea-and-nay vote on resolution No. 6. Yea-and-nay vote was taken the result being:

Yea, 72; nay, 0.

* * * * *

Mr. BALLINGER. Mr. Chairman, during the course of my statement yesterday I probably did not make plain this act of 1904 directing or authorizing the disposition of 256,000 acres of land of the Red Lake Reservation, and, therefore, at this point I desire to submit a few observations. The inchoate agreement, so far as any record discloses, originated in the department.

The CHAIRMAN. What department?

Mr. BALLINGER. The Indian Office. A representative of the Indian Office went to the Red Lake Reservation and there negotiated this inchoate agreement which appears in full in 33 Statutes at Large, pages 46 and 27. That agreement was transmitted to Congress, and in the Indian appropriation bill approved March 3, 1903, 32 Statutes at Large, pages 1009-1010, it was embodied with modifications, the principal modification being a change in the language with reference to the disposition of the 256,000 acres of land ceded. This provision in the Indian appropriation bill concluded as follows:

Of the amount realized from the sale of said lands the sum of \$300,000 shall be paid in cash, per capita, share and share alike, to each man, woman, and child belonging on said Red Lake Indian Reservation within 90 days after the sale herein provided for and the receipt by the United States of said sum from said sales, and the remainder of the proceeds of the sale of said lands shall be paid in cash, per capita, in 15 annual

installments, the first installment to be paid in the month of October of the year following that in which the payment of the \$300,000 is made.

In consideration of the Indians hereinafter referred to ratifying this act, the said Indians shall possess their diminished reservation independent of all other bands of Chippewa Indians, and shall be entitled to allotments thereon of 160 acres each of either agricultural or pine land, the different classes of land to be appropriated as equitably as possible among the allottees. And nothing in this act or its acceptance by said Indians shall be construed to deprive the said Indians of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this act.

The Secretary of the Interior is hereby vested with full power and authority to make such rules and regulations as to the time of notice, manner of sale, and other matters incident to the carrying out of the provisions of this act as he may deem necessary, and with authority to continue making sales of said land until all of said land shall have been sold. The register and receiver shall receive the usual fees for making final proof under this act.

Provided, That nothing in this section contained shall in any manner bind the United States to purchase any portion of the land herein described, or to dispose of said land except as provided herein; or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of said lands and to expend and pay over the proceeds received from the sale thereof only as received, as herein provided.

This act shall take effect and be in force from and after its ratification by the Red Lake and Pembina Bands of Chippewa Indians belonging on the Red Lake Indian Reservation, in the State of Minnesota, a majority of the male adults of said Indians assenting thereto, and the evidence thereof to be made by the proclamation of the President to the effect that this act has been duly ratified. And the Secretary of the Interior is hereby directed to submit this act to said Indians for ratification as early as is practicable.

The amended provision was submitted to the Indians and the Indians rejected it upon the stated ground that if the 256,000 acres were to be sold and disposed of as the other property of the Chippewa Indians ceded under the agreements of 1889 had been, the Indians would practically receive nothing for it, and they rejected the agreement on that ground, notwithstanding the benefits it attempted to confer upon the Red Lake Indians to the exclusion and at the expense of the great body of the Chippewa Indians of Minnesota, who were the real owners of the land to be ceded and who were not consulted. Then, Congress by the act approved February 20, 1904, (33 Stats., pp. 48 to 50, inclusive), reenacted the provision submitted to the Red Lakes and by them rejected as a law, with no provision for its resubmission to the Indians. It is true that the first portion, the first sentence, of that act recites "That said agreement be and the same is hereby modified and amended so as to read as follows"; but when it was passed, it was passed as a law of Congress and not as an agreement. So with reference to the disposition of that land there was never any assent given by any band of the Chippewa Indians of Minnesota, not even the Red Lakes. And the same is true with reference to the act of May, 18, 1916.

Now, I want to make the further observation—yesterday I referred to the great timber frauds that had occurred in the administration of the timber lands in Minnesota. In fairness to the Indian Bureau I will state that the Indian Bureau had nothing whatever to do with those frauds. The sale and disposition of the timber land was under the administration of the Land Department of the Government.

Mr. HERNANDEZ. How did it come under the Land Department?

Mr. BALLINGER. In the administration of the agreements of 1889.

The CHAIRMAN. Did you have that information when you made the statement here yesterday?

Mr. BALLINGER. I did, and it was because I was hurrying over the matter, Mr. Chairman, that I failed to make that plain. I want to be fair with all the bureaus of the Government.

Now, Mr. Chairman, I come to the question of the disposition of the agricultural lands. The bill under consideration makes provision for the disposition of the remaining lands in a different way from that contained in the agreements of 1889, and I desire to disclose to the committee the necessity for the proposed changes. The agreements of 1889 provided that the agricultural lands should be disposed of to entrymen under the homestead laws of the United States. At that time, as every gentleman here who is familiar with the homestead laws of the country knows, they were very liberal in the acquisition of titles. Subsequent to the agreements of 1889 the homestead laws were made more stringent both in the administration and by positive law of Congress. So that at the present time it is difficult if not practically impossible for an entryman to comply with the requirements of the homestead laws with reference to much of the remaining lands. Much of it is swamp land. Some of it is covered with timber. It would be practically impossible for an entryman of ordinary means to go out there and drain the swamp land or pull the stumps at the enormous expense he would be put to with the uncertainty of ultimately acquiring title under the homestead laws. Prior to the issuance of patent the land can not be used as a basis of credit or loans to obtain money with which to put it in a tillable condition.

The CHAIRMAN. Do you mean to convey by that statement the thought that the restrictions were made drastic so that they could not enter?

Mr. BALLINGER. They could enter the land, but it would be difficult for entrymen of ordinary means to comply with the law.

The CHAIRMAN. What I am getting at is, do you mean to have us understand that those restrictions were made so drastic that the people would not enter the land?

Mr. BALLINGER. Yes, sir; that is true. That was a general law. A very considerable portion of this land is swamp land that needs draining, and it will require a very considerable expenditure before the land can be made profitable, and few entrymen have been willing to take the chance of laying out the money for development with the certainty of acquiring title from the United States by patent at a later date.

The CHAIRMAN. What is your idea as to what should be done to correct that situation?

Mr. BALLINGER. There is no difference of opinion between the general council and the department with reference to the disposition of the remaining land. This bill provides that the land shall be appraised at its true value, its market value, and put up and offered for sale and disposed of to the highest bidder at not less than the appraised value. Having acquired title by purchase, a man can then use the land as a basis of credit and develop it. Now, on May 20, 1908, there was passed a bill commonly known as the Volstead Act.

Under that law it was provided that all unentered and undisposed of public lands or lands subject to entry in the State of Minnesota, as well as lands upon which no final certificate had issued, should become subject to the drainage laws of the State. Now, under the

operation of the drainage laws of Minnesota, where parties desired to create a drainage district they applied to the court by proper petition. The court approved the drainage project and surveys were made and the initial work commenced. The expense immediately became a charge upon the land and the land was subject to sale the same as private land to meet this charge. The result is that much of this land has passed into private ownership.

The CHAIRMAN. Through tax sales?

Mr. BALLINGER. To meet the costs of surveys and other charges. Now, under the first law—that is, the law I have referred to as the Volstead Act, it was sold at public auction—that is, the charge certificates were sold at public action for whatever they would bring, and the holder, the buyer of the tax certificates, could then go to the receiver's office—that is, the public-land office—pay \$1.25 per acre for the land plus the little charge that had arisen and acquire title to the land, but the proceeds over and above the actual cost of making the surveys, or of whatever it was the cost arose from, went into the fund of the Indians, and there was no particular objection to that. But by the act of September 5, 1916 (39 Stats., 372), the original Volstead Act was changed so that only \$1.25 per acre from the sale of these ceded lands went into the Indian fund and the balance of it went into the State fund for general drainage purposes. The Indians think that this was manifestly unfair to them and that they were entitled to the full proceeds derived from the sale of the lands.

The CHAIRMAN. All the Chippewa Indians believed that?

Mr. BALLINGER. I do not think that there could be any difference of opinion among them.

The CHAIRMAN. There is no reason why we should discuss that here.

Mr. BALLINGER. I merely state that, Mr. Chairman, to show the methods that have been resorted to in order to get this land into private ownership where it could be utilized and developed, and it shows also the necessity now of putting the land up and selling it for its actual value and letting the Indians have the benefits of it instead of giving it to the State and the white people who are now getting it under the amended Volstead Act.

Mr. HERNANDEZ. They have not disposed of all of this swamp land yet?

Mr. BALLINGER. No; it is impossible for me to state the exact acreage that remains undisposed of, but there is a very large amount of it. Now, Mr. Chairman, although I have made diligent effort at the various departments and bureaus of the Government that have handled this estate, it has been impossible for me to obtain any accurate figures with reference to anything pertaining to the estate, except the amount of money that has actually been deposited in the Treasury of the United States and the amount actually paid out.

I now come to the question of schools among the Chippewas, and I want to devote a few moments of my time to calling your attention to what has gone on in the past. By the agreement of 1889, section 7, it was provided that one-fourth of the interest accruing annually on the principal fund should be used exclusively for the establishment and maintenance of a system of free schools amongst the Indians. Now, the words "free schools" at that time had a well-understood meaning. They meant the same kind of free schools

that we have in every State in the Union. What happened? The department, instead of establishing and maintaining a system of free schools, that is, day schools, contiguous to the Indians, established only a few such schools, and in lieu of free day schools established boarding schools. The boarding schools were inadequate to meet the requirements of all the children who were entitled to participate in this school fund. The result is that favoritism was shown. Some children received the benefits of the boarding schools to which they were sent and were boarded, clothed, fed, and housed at the expense of the tribe. The parents of other children were compelled to send them off to schools for their education at their own expense.

These boarding schools are still maintained among the Chippewas and the general council has protested against them and still protests against them and asks for their abolishment at the earliest practicable date; and this bill provides a method whereby as soon as public schools can be established to take care of all Indian children the boarding schools shall be wiped out of existence. In that connection I want to call the committee's attention to a matter that occurred only recently at Twin Lakes, on the White Earth Reservation. There is a building there, at one end of which is a Government school, and at the other end of it is a public school of the State. In the Government's end there are about 30 children in attendance. At the public-school end there are about 15 or 16 children in attendance. Mr. Fairbanks, a member of the general council, who has just returned from there, knew one of the boys that was going to the Government school and he asked the boy about the two schools, and the boy said if they wanted to learn they ought to go to the public school, but he said that most of them went to the Government school because there they gave them a free dinner in the middle of the day. Now, that has been the inducement, this thing of alms, feeding them, reaching them through their stomachs, at the expense of their mental and moral development.

The CHAIRMAN. Where is that school located?

Mr. BALLINGER. At Twin Lakes. I say to you, Mr. Chairman, that that Government school ought to be abolished to-morrow and the children ought to be put in the public school which is accessible to them at the other end of the building, and which has adequate school facilities.

The CHAIRMAN. A few moments ago when you started your remarks on this subject, you used the word "department."

Mr. BALLINGER. Yes, sir.

The CHAIRMAN. What department do you mean?

Mr. BALLINGER. I mean the Indian Bureau.

The CHAIRMAN. Will you kindly try to use those words whenever you refer to the Indian Bureau?

Mr. BALLINGER. With the permission of the committee, when I come to look over my remarks I will make those changes.

The CHAIRMAN. It will be all right even now as you are going on, if you can do that.

Mr. BALLINGER. Now, Mr. Chairman, I want to refer to these boarding schools particularly. I have before me and hold in my hand the report of the Commissioner of Indian Affairs to the Secretary of the Interior for the fiscal year ending June 30, 1919. If any

member of the committee desires to check up on the statement I am going to make, there is the record to which I refer. The commissioner's report for the year ending June 30, 1919, sows, on page 162, that the Government maintained that year at Fond du Lac a school that had a capacity of 60, a total enrollment of 27, and an average attendance of 18 children, with one employee, page 208, who received \$1,600 per annum. Such a school has not existed for years. Mr. Chairman, this part of the report is pure fiction. The annual report of the commissioner for the year ending June 30, 1919, contains statements equally startling as the above. On page 208 the number of employees and the salaries paid in connection with the school service maintained among the Chippewas in Minnesota during that fiscal year are given, and on page 162 the number of children attending the separate day and boarding schools are also shown.

This report shows, on page 162, that a day school with an average attendance of seven children was maintained at Grand Portage. On page 208 the report shows that there were eight school employees, who received in salaries \$5,000 per annum. Eight employees for seven children. At the Leech Lake Reservation boarding school the average attendance was 34. This school maintained 12 employees, who received salaries aggregating \$8,500. At the Red Lake school the average attendance was 58. There were 25 employees, who received salaries aggregating \$17,630. I want to pause right here. My recollection is that Congress now allows for the support and education of the children in the Government schools \$275 per annum. Am I correct in that?

The CHAIRMAN. It depends upon the average attendance at the school, but I think it would easily cost \$275 for a school of that size and character.

Mr. BALLINGER. There was more money paid that year to the employees of the school at Red Lake than it cost to educate, feed, board, and clothe to a limited extent the children in Government nonreservation schools. At the Vermilion Lake Reservation boarding school there was an average attendance of 99 children, nearly twice the number at Red Lake, yet the number of school employees was only 15, who received aggregate salaries of \$9,840, or a little more than half the salaries paid to the teachers at Red Lake. An examination of every school maintained among the Chippewas shows that the salaries of employees alone, when considered in connection with the number of children attending each school, exceeded the total cost of maintaining the children in the Government nonreservation schools, as I have stated.

This was for salaries alone and did not take into consideration any of the other costs for food, clothing, fuel, and so on, which amounted to far more than the salaries of the employees, and more than twice as much in salaries of employees per child as it would cost to board, clothe, care for, and educate each child in the mission schools. Now, I want to pause here to say a word about two mission schools in that country. On the White Earth Reservation and on the Red Lake Reservation the Catholic Church maintains two mission schools. I am not a member of that church and I think that comparatively few members of the general council are members of that church, but, Mr. Chairman, those mission schools are the best

educational institutions to be found in that country. Those little sisters have performed wonders among the Chippewa children. They are taking the Chippewa Indian children at \$110 per year, feeding them, clothing them, and providing them with every essential necessary to life and to education; and yet the tribe is paying for the children in the departmental Government schools from \$275 to \$300 per year for employees alone. Now, Mr. Chairman, the figures I have given you with reference to the cost of employees at these boarding schools are from the report of the Commissioner of Indian Affairs for the fiscal year ending June 30, 1919.

In that year there was a substantial reduction in the cost over previous years, and that cost of employees has no relation, please understand, to the cost of the agency employees. They are separate and distinct and in addition. Now, the bill as drafted by direction of the general council, and as agreed to by the Indian Bureau, will put an end to this condition. Provision is made to aid the State of Minnesota in the extension of the public-school system of that State to these Indians so that they will have proper school facilities at home. Last year, Mr. Chairman, at White Earth, the Indians in that country who are the taxpayers made great complaint against the general conditions, moral, educational, and almost everything pertaining to the Government boarding school then being maintained at that place, and last year the department surrendered the school building to the county and State authorities and they have at their own expense this year maintained for the first time one of the best schools in the State. It is now a public school maintained by the taxpayers. It was a heavy burden to throw upon them at first and they made application to the department for the allowance of a part of their interest money to aid the State authorities and the county authorities in putting the school upon its feet, but not a dollar were they able to obtain. The Indian appropriation bill, thanks to you gentlemen, this year contains an appropriation which will enable them to use a part of their school fund for this purpose.

The CHAIRMAN. I would like to ask you, Mr. Ballinger, as you seem to be well posted on Indian Service matters, what you think of this provision in the present appropriation bill, that is, the appropriation bill for 1920-21, which states:

Provided, That all reservation and nonreservation boarding schools with an average attendance of less than 45 and 80 pupils, respectively, shall be discontinued on or before the fiscal year 1921.

Mr. BALLINGER. I think it is a wise provision.

The CHAIRMAN. Well, will that have the effect of clearing up to some extent the situation you speak of?

Mr. BALLINGER. No; Mr. Chairman, it would not, because these are not reservation and nonreservation boarding schools maintained out of the Public Treasury, and I am apprehensive—

The CHAIRMAN. This, as I understand it, covers all schools, whether or not they are maintained out of the public funds.

Mr. BALLINGER. I hope it will obtain that construction, but from my experience I take it that it is going to be limited to schools maintained out of the Public Treasury.

The CHAIRMAN. If that is so, and it will be interpreted in that way, we want to serve notice that that will be corrected in the next bill.

Mr. MERITT. It will be construed so that the legislation will apply not only to gratuity appropriations, but to tribal funds.

The CHAIRMAN. I am very glad you will do that because that was the clear understanding of the committee.

Mr. MERITT. We are heartily in favor of it.

Mr. BALLINGER. Now, Mr. Chairman, I come to a provision that has to deal with the proposed legislation which is of greater importance to the Chippewa Indians of Minnesota than any other provision in the bill. It relates to those provisions of the bill which provide for the preparation of rolls of competent and incompetent Indians. For 30 years Congress has been making annual appropriations upon the basis of the entire membership of the Chippewa Tribe, namely, 12,000 Indians. In every justification transmitted by the department for the appropriations asked for will appear the total number of the Chippewa Indians of Minnesota—twelve thousand and some odd. Mr. Chairman and gentlemen of the committee, between 30 and 40 per cent of that membership has left the Chippewa country. They are scattered throughout the United States, taking their part with white men and making good in every walk and avenue and profession of life, and yet those men have been included in statements transmitted here as a basis for appropriations. Mr. Chairman, from 1890 down to the last year there has been an annual drag upon the trust funds of the Indians ranging from \$75,000 to \$185,000 per annum; and in my judgment, and in the judgment of the general council, that money, or at least 75 per cent of it, has been thrown away.

It has been worse than thrown away. It has been used in the employment of a vast horde of employees in that country who have deprived the Indians of their lawful rights. Instead of handing them that which the law commanded them to they withhold it from them. Let me give you an illustration. Under the agreement of 1899 it was provided that the interest money should be paid in cash to them. That little interest money aggregating about \$18 per capita per annum was not paid in cash to them, but accounts were opened on the books of the agencies and in the banks. In 1916 when the General Council commenced functioning they found little accounts up there ranging from \$1, 50 cents, and 5 cents up. I remember that I transmitted to the department one of the statements from the agents showing that the man had 5 cents to his credit. The administration of these little accounts cost the Chippewa Indians anywhere from \$20,000 to \$30,000 per annum, and that money was being withheld from them in absolute defiance of the law.

Mr. DALLINGER. You mean \$18 per capita?

Mr. BALLINGER. \$18 per head—per man, woman, and child. Now, Mr. Chairman, I want to be fair with the Indian Bureau about this. The General Council when it first entered its protest to the department received but scant recognition, but finally these matters got into the hands of Mr. Meritt, and I want to say that Mr. Meritt has, as far as he could, been eminently fair with us in dealing with these matters. Of course, when he ran into the question of the department policy his hands were tied, but in other respects he has been fair. As the result of the work of the General Council there was a division of one-fourth of the principal fund, amounting to \$130 per capita, that was paid out. That money was placed around in banks, and when an Indian wanted \$25, for instance, if he was living up ad

Grand Portage, out 75 miles from the agency, he made his application and the agent sent a man out from the agency, 40 to 75 miles, to make an investigation as to whether or not the man actually needed the \$25; and the cost of the investigation in most instances, I think I can correctly state, cost more than the man finally got.

The CHAIRMAN. What fund was that paid from?

Mr. BALLINGER. That money was paid out of the trust funds, out of appropriations made by Congress of \$185,000 per annum. The result was that when we finally got down to dealing with the Indian Bureau, and after they recognized the council about a year ago, orders were issued to pay these funds out, everything less than \$50 for the incompetent, and where the Indian had received his patent in fee to pay it all out to him. But even at the present time much of these funds still remain intact. Mr. Fairbanks, who is a member of the General Council—and I expect that Mr. Fairbanks in his business operations could employ a good portion of the Indian Bureau employees and pay them better salaries than they are now receiving—could not receive the funds or bonds of his little children, which are still being held by the agency and have not been turned over to him. Mr. Rogers, who is county attorney for Cass County and who looks after the legal affairs of the white people in that country—his bonds, the bonds of his little children, purchased out of their trust funds, had not, the last time I was advised, been turned over to him. I pause to inquire of Mr. Rogers if they have yet been turned over to him.

Mr. ROGERS. I had myself appointed as the legal guardian and the bonds were then turned over to me.

The CHAIRMAN. I would like to ask Mr. Rogers how long it has been since he began to try to get control of this fund.

Mr. ROGERS. The money for my children?

The CHAIRMAN. Yes.

Mr. ROGERS. About two years ago last summer.

The CHAIRMAN. And you just got it now?

Mr. ROGERS. I got it last year.

The CHAIRMAN. What time last year? I want to fix as nearly as I can the length of time it took you to get it.

Mr. ROGERS. It took about a year and six months.

Mr. HASTINGS. What degree of blood are the children? Are they full-blood children?

Mr. ROGERS. No, my children are mixed blood. There is no qualification as to whether they are full or three-quarters. I am just classed as a mixed blood.

Mr. HASTINGS. Was your father a white man?

Mr. ROGERS. My father was a white man.

The CHAIRMAN. Did the fact that you are a mixed blood militate against you in any way in getting control of the funds of your children?

Mr. ROGERS. No; I don't think so.

The CHAIRMAN. There was nothing in the law that prevented you from getting control of it on account of your being a mixed blood?

Mr. ROGERS. No.

Mr. BALLINGER. You received a patent in fee for your land?

Mr. ROGERS. Yes; I am a full-fledged citizen; I received a patent in fee.

Mr. HASTINGS. What was the amount of the bonds of your children?

Mr. ROGERS. Four hundred dollars.

Mr. BALLINGER. Was that the total?

Mr. ROGERS. I got \$400 in bonds, and I got \$130 in cash.

Mr. HASTINGS. How many children have you; I mean that have bonds?

Mr. ROGERS. Four. They each have a hundred-dollar bond.

The CHAIRMAN. Now, in order to get control of this fund, just what did you have to do?

Mr. ROGERS. Are you speaking to me?

The CHAIRMAN. Yes; I am speaking to you, Mr. Rogers.

Mr. ROGERS. Why, at first I took it up with the agent and he said that he had no authority to turn it over to me, and I personally took it up with Mr. Miller, whom I believe was on the Indian Committee at the time. He was in the House, anyhow. He might have taken it up with the department. They eventually wrote me stating that if I appeared before the court and had myself appointed guardian and gave a bond that they would then turn the bonds over to me, which I did. I had myself appointed guardian and I gave bond, and the bonds were eventually turned over to me, in addition to the \$130.

The CHAIRMAN. What was the nature of these bonds—Liberty bonds?

Mr. ROGERS. Liberty bonds.

The CHAIRMAN. And these bonds were purchased by the department with money that belonged to your children?

Mr. ROGERS. Yes, sir.

The CHAIRMAN. All right.

Mr. MERITT. Mr. Chairman, in order that the record may be clear I would like to have him state how long after he was appointed guardian this money was turned over to him.

The CHAIRMAN. That is fair. How long after you were appointed guardian of your children did it take you to come into possession of these funds?

Mr. ROGERS. Well, I don't exactly recollect now, but I think something like six months.

The CHAIRMAN. Something like six months?

Mr. ROGERS. Yes.

Mr. MERITT. Mr. Chairman, may I have the records looked up in that particular case and put it on the record?

The CHAIRMAN. Yes; I would be glad to have you in your statement give us any information you desire upon that particular matter.

Mr. BALLINGER. Now, Mr. Chairman, since that bond question has come up I want to make a statement in fairness to Mr. Meritt and also to the General Council. When they commenced investing the funds of the Indians in Government bonds, these little interest payments under the agreement of 1889 were to be used for their support and to be paid in cash to their parents. I filed a written objection with the department, explaining that I did not want it to be understood that any of the Indians were unpatriotic, but that these little sums could help the Government but little and that they would be needed by the Indians, many of them, in properly educating and caring for their children. The funds were, however,

invested in Government bonds contrary to law. Subsequent to the bureau's recognition of the General Council a little over a year ago I took the matter up with Mr. Meritt of the Indian Bureau, and an order was issued directing the delivery of the bonds to the parents in all cases where the parents had received patents in fee and to restricted parents where they would have themselves appointed legal guardians. We discovered then that in order to get a Government bond belonging to children of \$50 or \$100 in condition to be converted into cash it was necessary to go into court and incur an expense of anywhere from \$15 to \$30 in the appointment of a legal guardian. The department with the General Council thereafter worked out a scheme whereby the Government redeemed these bonds and paid the money over to the Indians. When the Indian wanted money for the bond he had to sell it at a discount of about 10 per cent. So that when it was finally converted, until this arrangement was worked out with the department, there was practically nothing left of a \$50 bond for the Indian. Mr. Meritt cooperated finally in that and we made a saving to these people easily of \$125,000 on the bonds alone.

Now, Mr. Chairman, I say without fear of contradiction that at least 85 to 90 per cent of the Chippewa Indians of Minnesota are competent to handle their own affairs, as competent as are the white people of the State, their neighbors. There are some up there who ought, in my judgment, to remain under some supervision. The old Indian can probably never be reformed. The young Indian, in my judgment, is probably better off if you will give him his money and throw him upon his own responsibility with notice that that is all he is going to get. If he squanders it in his younger days he has an opportunity to retrieve his lost fortune. If you do that with the old Indian and he squanders it he will then become a charge upon the State. For that reason I think it would be well to liberate the young Indian in almost every instance, but it would be best to hold on to the old Indian. And this bill in my judgment will work out a plan by which every Indian in that country will be liberated within a comparatively short time. Those who are found to be competent will be instantly liberated, and those who are found to be incompetent will receive their money, not at the whim and fancy of some Government officer and after costly inquiry, but in regular annual payments for a series of years. The same plan has been tried among the Kaw Indians and worked admirably. That feature of the bill was taken from the law drafted by Senator Curtis.

Mr. HASTINGS. I am not familiar with the provisions of this bill, but does it provide for the appointment of a commission to pass upon the competency of the Chippewa Indians?

Mr. BALLINGER. Yes.

Mr. HASTINGS. Is final authority given to that commission?

Mr. BALLINGER. Yes, sir.

Mr. HASTINGS. The commission does not have to report to the Interior Department? The finding of the commission in that respect does not require the approval of the department?

Mr. BALLINGER. Mr. Hastings, that commission is to be composed of three men, one to be appointed by the President, one by the Secretary of the Interior, and one by the General Council so that the

Chippewa Indians themselves may have recognition on the commission, which, in my judgment—

Mr. HASTINGS. I am in hearty sympathy with the Indians having recognition on the commission.

The CHAIRMAN. Proceed.

Mr. BALLINGER. Now, Mr. Chairman, you have heard a great deal about the great land frauds in Minnesota, and probably when this bill comes up there will be some reference made thereto upon the floor. Now, I want to say a few words with reference to that situation. In 1906, by the act of June 21, 1906, 34 Stats., 325, at page 353, there was inserted a provision which I want to read:

That all restrictions as to sale, incumbrance, or taxation for allotments within the White Earth Reservation in the State of Minnesota, now or hereafter held by adult mixed-blood Indians, are hereby removed, and the trust deeds heretofore or hereafter executed by the department for such allotments are hereby declared to pass the title in fee simple, or such mixed-bloods upon application shall be entitled to receive a patent in fee simple for such allotments; and as to full bloods, said restrictions shall be removed when the Secretary of the Interior is satisfied that said adult full-blood Indians are competent to handle their own affairs, and in such case the Secretary of the Interior shall issue to such Indian allottee a patent in fee simple upon application.

Observe that that law automatically removes the restrictions upon all mixed blood adults. The department, that is, the Indian Bureau, disclaims authorship of that provision, and claims that that was inserted by Congress, that is, in Congress. At any rate, Mr. Chairman, the Indian Bureau was apprised of the legislation. It was inserted as an amendment in the Senate, and the Indian Bureau at least ought to have known the consequence that would follow that legislation, for the Senators and Congressmen are not supposed to be thoroughly familiar with the condition of rolls in the possession of the Indian Bureau. At that time, Mr. Chairman, there was no roll in existence showing the mixed bloods and the full bloods. In the preparation of rolls under the agreement of 1889 they were enrolled merely as members of the tribe and membership did not depend upon the quantum of blood; so that when that law was passed the only way a purchaser of land could ascertain whether or not a man was a full blood or mixed blood was from his physical appearance the general repute in which he was held and from the evidence the man offered to the purchaser. The Indians appeal to the white men in that country to buy their lands, gave them affidavits of themselves and members of their families that they were in fact mixed bloods, and they had been so recognized in that country as mixed bloods for years. White men bought the title, believing it to be good.

There was considerable of that land sold for less than its actual value, but at that time, remember, there was a large area of land in that country that was open to purchase, and land then was cheap as compared with the present time. After these sales had been made, and the Indians had sold their lands, representatives of the department went out into that country and claimed, first, that the words "mixed blood" meant only persons of less than half blood, and then, second, that many Indians who signed these affidavits were in fact full bloods. I will say to the chairman of the committee that the best information I can obtain is that there is not a full-blood Indian in the State of Minnesota. They have been mixed up with the white citizens in that country—French traders, and other white people—for more than 100 years, so that there is not a full-blood Indian in the

State of Minnesota to-day. The result was that innumerable suits were filed in the name of the United States throwing a cloud upon the title of practically every Indian allotment in that country, frightening purchasers away. Those suits were not brought to trial. By the act of June 30, 1913 (38 Stats., 88), provision was made for the appointment of a commission to take up the cases in the courts and to classify those Indians and make a roll showing the mixed bloods and the full bloods. That commission has now about finished its work. The result is that through the instrumentality of that commission men have been compelled to come in and make settlements with the Government upon the basis of the present valuation, in many instances, of the land, and then after the settlement was made the Indian has been listed as a mixed blood.

The court never had jurisdiction of the case of a mixed blood, and yet through the instrumentality of the Government agents the purchasers of that land, having made a valid purchase in the first instance as the seller is now classified as a mixed blood, has been held up and compelled to come in and make further payment. There are only comparatively few listed as full bloods. I think on the entire White Earth Reservation, where about 7,000 Indians were allotted, that your roll will contain less than 600 names of full bloods, and yet settlements have been obtained from a far greater number. The Government boasts of the fact that it has made a recovery for the Indians of some million, or a million and a half of dollars. In most instances the recovery was improper, but if it was proper those suits have cost the Indians in that country five times the amount of the recovery by the depreciation of everything that touched Indian land or pertained to it because, no one would buy it, and to-day people are afraid of Indian titles in that country. Now, that is, Mr. Chairman, the story of the great land frauds. If rolls had been made before that law became operative, classifying the Indians into full and mixed blood status, and those rolls had been made conclusive, no fraud could have occurred. We would never have heard of them.

This bill that you have before you takes this precaution, and in addition to the rolls it provides that the acknowledgment of a deed from an Indian shall be before a court of record and not before a mere notary public or some irresponsible individual. I want to say to you that the bill as presented here represents the most careful thought of the members of the General Council of the Chippewa Indians. They stand equal to the white people of Minnesota. There are men on that General Council who, as business men, as practical men, as lawyers, rank among the best in Minnesota, and whose integrity is universally acknowledged. Now, provision is made also in the bill for completion of the allotments to the Indians. The commission created under the act of 1889 ceased to function in 1901. It got into a row with the then Secretary Hitchcock and he tried to abolish them. He at least put them out of commission, and the result was that by the act of June 22, 1902 (32 Stats., 400, at p. 404, sec. 5), the work of completing the allotments was turned over to the department, but there never has been any authority conferred upon the department, although such authority has been exercised, to enroll or add the name of a single person to those rolls. Some of them have been added and the general council think properly added, but they are illegally on there because there was no authority vested in

the Secretary to put them there. This bill will validate those enrollments and relieve the Government of the United States of any possible claim that might arise therefrom.

Now, Mr. Chairman, for 31 years the funds of those Indians have been appropriated by Congress, and the general council has taken the position, at least since 1916, that Congress ought not to have appropriated the funds, their trust funds, to defray the Indian Bureau expenses in Minnesota. In the first place, Mr. Chairman, in 1889, when this agreement was entered into and for years theretofore the Government had maintained two agencies, one agency and a sub-agency, in that country—the agency at White Earth Reservation, and the sub-agency at Red Lake Reservation. The cost of support and civilization, including pay of Government employees prior to 1889, when these Indians were supposed to be uncivilized, was less than \$29,000 per annum, including the school funds, and all was paid for out of the Public Treasury. Every dollar that went to an Indian agent and for the agency employees in that country prior to 1889 came out of the Public Treasury of the United States.

The CHAIRMAN. Before that period what source of income did the Minnesota Chippewa Indians have?

Mr. BALLINGER. Up to 1889 a great many of them were farmers, just as they are now, and they worked in logging camps and in various mills and on farms around throughout that country.

The CHAIRMAN. Just as they are doing now.

Mr. BALLINGER. Just as they are doing now, and they themselves at that time were independent and self-supporting, the great majority of them. Now, Mr. Chairman, if it had been the intention of Congress or of the Government to have imposed upon the tribe the cost of maintaining their agents it should have so provided in the act of 1889. These agents were in fact not maintained for the benefit of the Indians. The agency system was built up years ago, back in the early days, for the protection of the whites, and it was forced upon the Indians. No Indian tribe ever asked for an Indian agent. It was forced upon them by the Government for the Government's protection and to keep the Indian in quietude—I was going to say in subjugation. Therefore, Mr. Chairman, if it had been the intention of either the Government or the Indians when the agreement of 1889 was signed that their trust funds were to be used in paying the salaries of the United States employees in that country, express provision must have been written into the agreement. That is the universal rule of construction. Now, what happened? The United States never set up a claim until 1910 or 1911 that these funds could be used for such a purpose. The appropriations theretofore were for specific purposes—the appropriations theretofore out of their trust funds or made reimbursable out of their trust funds, were specific, namely, for the work of administration of the estate. Yet, Mr. Chairman, prior to 1910 and 1911 the funds were used by the Indian Bureau and the department for these agency expenses. The money was diverted from the purposes for which it was appropriated and used for these agency expenses.

The CHAIRMAN. Thirty-one years ago, this time that you are referring to, did the Minnesota Chippewas have a correlated fund at that time? Did they have any treasury fund of their own, in their own possession or in the possession of the Government?

Mr. BALLINGER. No, sir; they did not; but if it had been the intention of Congress to pay the agency expenses out of their funds they would have appropriated it that way in the first instance and made it reimbursable.

The CHAIRMAN. But we must not get away from the fact that these Indians had no administration; and during this Indian Bureau's administration, whether it was good or bad, they have accumulated a fund.

Mr. BALLINGER. Yes, sir; but remember that fund began to accumulate in 1896, and between 1896 and 1911 Congress never touched it for that purpose. Then there was no authorization from Congress, and yet the funds were diverted from the purpose for which they were appropriated. Now, Mr. Chairman, the claim is made that you can use, take those funds and use them under this provision appearing in section 7 of the act of January 14, 1889, as ratified by the Indians:

"Provided, That Congress may in its discretion from time to time; during the said period of fifty years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding 5 per centum thereof."

Now, remember that in the first portion of section 7 it was expressly provided that all of the money shall be paid to the Indians, and this was the exception. Now, when the agreement was submitted to the Indians they asked what that meant, and this is what the commissioners told them: "That this fund was to be encroached upon only in the event of failure of crops or any other unforeseen misfortune." I quote from H. Doc. No. 247, Fifty-first Congress, first session, page 88. Now, Mr. Chairman, on the very face of that proviso it is plain that neither the Government nor the Indians intended that this should be a continuous annual performance, for it says that Congress may in its discretion from time to time use it. If it contemplated annual incursions upon the funds it would have been so stated, but the language itself excludes that construction.

The CHAIRMAN. What is the interpretation of that language—"from time to time?"

Mr. BALLINGER. The interpretation of it would be, that the Indians would be bound by the interpretation of this language, as given to the Indians and upon which interpretation they acted. That is the universal construction.

The CHAIRMAN. From time to time in one year, or from time to time in a period of years?

Mr. BALLINGER. Mr. Chairman, it would mean exactly what was within the minds of the parties, the intention of the parties.

The CHAIRMAN. Of course, the intention of the parties. That is what I am trying to get at.

Mr. BALLINGER. Precisely, it would mean what was within the minds of the parties, the intention of the parties. The object and purpose of that was to meet unforeseen contingencies that might arise. That was the object of it.

The CHAIRMAN. Then you maintain that all this money appropriated for the benefit of the Indians of their funds by Congress will eventually be put into a claim against the Government?

Mr. BALLINGER. Mr. Chairman, this bill puts it into a claim against the Government and refers the matter to the Court of Claims. When

you refer to this money that has been appropriated for the benefit of the Indians, the position of the general council is that while Congress intended that it should be for the benefit of the Indians it has never been used for their benefit. The Government employees in Minnesota have received the real benefits. Upon this point, Mr. Chairman, I will ask that this typewritten statement be included in my remarks.

The CHAIRMAN. It is so ordered.

(The said legal analysis follows:)

USE OF THE TRUST FUNDS FOR ALLEGED "SUPPORT AND CIVILIZATION."

Since about the year 1895 the Indian Bureau has been using the trust funds of the Chippewa Indians of Minnesota in paying the salaries and expenses of maintaining its regular agency employees. This was done prior to 1911 without any vestige of authority of law, and since 1911 under color of congressional authorization

Prior to the act of January 14, 1889, the United States maintained an agency for the Chippewa Indians of Minnesota at White Earth, and a subagency at Red Lake. By reference to the Indian appropriation bill approved June 29, 1888 (25 Stat., 217) it will be observed that the following appropriations were made for the support of the agent and for the support and civilization of all the Chippewa Indians of Minnesota:

At page 218. "For pay of 58 agents of Indian Affairs at the following-named agencies, at the rate respectively indicated: * * * at the White Earth Agency, at \$1,600."

At page 230. "For support and civilization of Chippewas of Red Lake and Pembina Tribes of Chippewas, and for pay of employees, \$10,000."

At page 230. "Support of Chippewas on White Earth Reservation: * * * \$10,000."

At page 220. "For the support of a school or schools upon said reservation, during the pleasure of the President, in accordance with third article of the treaty of March 19, 1867 (vol. 16, p. 720), \$4,000."

This bill also carried numerous large lump-sum appropriations, of which the following, appearing at page 235, is a sample:

At page 235. "For support of Indian day and industrial schools, and for other educational purposes not hereinafter provided for, \$685,000. * * *"

Like appropriations had been carried in the Indian bills for years theretofore. It will be observed that in 1888 the United States paid out of the Public Treasury the salary of the agent at White Earth and appropriated \$20,000 for the support and civilization of all the Chippewa Indians in Minnesota and the pay of all employees. In addition to this it appropriated under article 3 of the treaty of March 19, 1867, \$4,000 for a school for the Indian children, and out of the lump-sum appropriations made for educational purposes an allotment of a few thousand dollars was made yearly for schools for the Chippewa children. The agency at White Earth, like other Indian agencies, was established not so much for the benefit of the Indians as for the protection of the white population, and was in pursuance of a governmental policy forced upon the Indians which the Government of the United States recognized as its policy and properly maintainable by the United States out of the Public Treasury.

The act of January 14, 1889, section 7, expressly provided that the proceeds derived from the sale and disposition of the ceded property should be placed in the Treasury of the United States to the credit of the Indians and should be paid to the Indians, principal and interest. That section contained this proviso:

"Provided, That Congress may, in its discretion, from time to time, during the said period of 50 years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding 5 per cent thereof."

It is plain from a consideration of section 7 that neither the United States nor the Indians had in contemplation the use of any of the trust funds in defraying any of the regular agency expenses. The proviso never contemplated a regular annual appropriation for it provides "that Congress may, in its discretion, from time to time, * * * appropriate, for the purpose of promoting civilization and self-support among said Indians, a portion of said principal sum."

The words "from time to time" negative the idea that the appropriations were to be continuous and annual. When the act of January 14, 1889, was submitted to the Indians for ratification before it could become a law, the commissioners, representing the United States, explained the above-quoted proviso to the Indians and stated to them that it meant only that Congress might encroach upon the principal fund in the

event of failure of crops or any other unforeseen misfortune. (H. Doc. No. 247, Fifty-first Cong., 1st sess., p. 88.)

This explanation given by the commissioners, representing the United States; the Indians accepted and acted upon and the explanation, therefore, controls the construction to be placed upon the proviso and is binding upon the United States. (*Minnesota v. Hitchcock*, 185 U. S., pp. 395-6; *U. S. v. Mille Lac Band of Chippewa Indians*, 229 U. S. at pp. 509-10.)

That the United States did not consider that any of the trust funds of the Indians could be used for agency purposes is evidenced by the fact that regular annual appropriations were made for 20 years after the agreement of 1889 was signed for the pay of the agent and agency employees out of the Public Treasury, as will appear from an examination of the following acts:

- Act approved August 19, 1890 (26 Stat., 336, 337, 339, 351).
- Act approved March 3, 1891 (26 Stat., 989, 990, 992, 1004).
- Act approved July 13, 1892 (27 Stat., 120, 122, 123, 134).
- Act approved March 3, 1893 (27 Stat., 612, 613, 615, 627).
- Act approved August 15, 1894 (28 Stat., 286, 288, 289, 302).
- Act approved March 2, 1895 (28 Stat., 876, 878, 880, 891).
- Act approved June 10, 1896 (29 Stat., 331, 333, 335, 336).
- Act approved June 7, 1897 (30 Stat., 62, 64, 66, 77).
- Act approved July 1, 1898 (30 Stat., 571, 573, 575, 584-585).
- Act approved March 1, 1899 (30 Stat., 924, 925, 926, 928, 937).
- Act approved March 3, 1901 (31 Stat., 1058).
- Act approved May 27, 1902 (32 Stat., 245-246).
- Act approved March 3, 1903 (32 Stat., 982).
- Act approved April 21, 1904 (33 Stat., 189).
- Act approved March 3, 1905 (33 Stat., 1048).
- Act approved June 21, 1906 (34 Stat., 325).
- Act approved March 1, 1907 (34 Stat., 1015).
- Act approved April 30, 1908 (35 Stat., 70).
- Act approved March 3, 1909 (35 Stat., 781).

In 1900 lump-sum appropriations were made in lieu of specific appropriations for the separate reservations throughout the country, but each bill down to the one of March 3, 1909, contained specific appropriations for the pay of the agents or superintendents among the Chippewas out of the public funds. Every appropriation bill enacted from August, 1890 (26 Stat., 336, 351), down to and including the year 1909 contained the following item varying only in the amount appropriated:

"To enable the Secretary of the Interior to carry out an act entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota, and for other purposes,' approved January 14, 1889, as follows: For the purpose of erection of houses for Indians and saw and flour mills; agricultural implements, stock and seeds, breaking and fencing land; for payment of expenses of delegation of Chippewa Indians to visit the White Earth Reservation; for the erection and maintenance of day and industrial schools; and for subsistence and pay of employees, \$100,000; and for surveys, appraisals, removals, and allotments, \$100,000; in all, \$200,000, of which amount \$7,500, or so much thereof as may be necessary, may be used for the employment of additional clerical force in the office of the surveyor-general of Minnesota, on account of such surveys: *Provided*, That the amounts shall be reimbursed to the United States from the proceeds of sales of land ceded by the Chippewa Indians under the act of January 14, 1889. And the Secretary of the Interior shall make a full and detailed report of his doings hereunder to the first session of the Fifty-second Congress."

Under these appropriations not a dollar of this money could be used lawfully for the pay of agents or agency employees, yet a substantial proportion of it was, in defiance of law, used by the Indian Bureau in addition to the regular appropriation for agency employees and only a part of it used for the purposes for which it was appropriated. In 1910 the United States was reimbursed from the trust fund for all moneys appropriated from the Public Treasury and made reimbursable, and in the act of March 3, 1911 (36 Stat., 1058 at 1065), appeared for the first time this provision:

That the Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, at his discretion, the sum of \$165,000, or so much thereof as may be necessary, of the principal sum on deposit to the credit of the Chippewa

Indians of the State of Minnesota, arising under section 7 of the act of January 14, 1889, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," and to use the same for the purpose of promoting civilization and self-support among the said Indians in manner and for purposes provided for in said act.

Only an insignificant amount of this appropriation of \$165,000 went to the Indians, less than \$8,000 being expended that year for their benefit, the remaining \$157,000 being used for agency and kindred expenses. From 1911 to the present day the annual appropriations, ranging as high as \$185,000, have been used for similar purposes. Agencies have been maintained at Fond du Lac, Grand Portage, Leech Lake, and Nett Lake, in violation of law and the trust funds of these Indians, amounting to hundreds of thousands of dollars used in the maintenance of these agencies. Reservations have been maintained at each of the above-named places in violation of law, and the expenses of maintaining the reservations have been paid from the trust funds. When the Chippewa Indians have sought to obtain the opinion of the law officers of the Government as to the validity of these appropriations and expenditures, both the department and Indian Bureau have refused to permit the matter to be referred to the judicial officers for an opinion as will appear from the correspondence heretofore included in the record.

Now, Mr. Chairman, I may add also that the right of the Government to use these funds is also one of the questions that the General Council asked the department to refer to its legal officer for an opinion, at least for the guidance of the department in making requests for appropriations, and the department refused even to submit that question to its own legal officer. In my judgment the reason for their refusal to submit the question was that it was so plain that they would of necessity have received an opinion to the effect that the funds could not properly be used. That request was made, Mr. Chairman, immediately following the submission of another question to the solicitor, in which the solicitor had reversed the Indian Bureau. The Indian Bureau had issued orders to strike the names of a large number of minor Chippewa children from the tribal rolls, on the ground that those children had been born or were residing off of the Indian reservation or off the allotted lands of their parents. Their names were stricken from the rolls, and orders were issued to return any funds that had been segregated to their credit in the Treasury of the United States. The General Council instructed me to take that matter up and, if necessary, to go to the courts with it. I asked the department to refer the matter to the solicitor of the department, which was done, and the solicitor rendered a very carefully prepared opinion, in which he deals with the nature of this trust, and directed the restoration to the rolls of these minor children.

Mr. HASTINGS. Will the department follow the opinion of the solicitor?

Mr. BALLINGER. Yes, sir.

Mr. HASTINGS. Then you have no complaint on that?

Mr. BALLINGER. Not at all. I merely referred to that as the probable reason why my subsequent request to have the question referred to the solicitor was denied. In my judgment the previous reversal of the Indian Bureau by the solicitor was one of the reasons why it was denied.

Now, Mr. Chairman, the question has been raised here with reference to the power of Congress to dissolve this trust, to terminate this trust, and to divide these funds in advance of the 50-year period provided for in section 7 of the agreement of 1889. That is a matter, when I first looked into it, caused me some annoyance, but after a careful consideration of it, I do not think there is any question about the power of Congress with the assent of the Indians to dissolve this trust at this time. This bill before you, if enacted into law, will dissolve this trust before the expiration of the 50-year period. Section 7 of the act of 1889, as agreed to by the Indians, provides for the sale and disposition of all the ceded property, and the deposit of the proceeds in the Treasury of the United States to the credit of the Chippewa Indians of Minnesota. The fund was to bear interest at the rate of 5 per cent per annum, and was to be held as a trust fund for a period of 50 years after all the property had been sold and all the allotments made.

The question has been raised as to the power of Congress to dissolve the trust before the expiration of the time specified. Ordinarily such a trust could not be changed, altered, or modified by either the creator, the trustee, the cestui que trust, or the court, except with the consent of all the beneficiaries. But this rule does not apply in a case in which unforeseen conditions have arisen which prevent the execution of the trust as the creators intended it should be executed. Such is the case here. Both the Government and the Indians contemplated the sale and disposition of the property and the completion of the allotments in a few years after the agreement of 1889 was entered into. Then the trust period of 50 years commenced to run. Thirty-one years have now passed, and the allotments have not been completed, nor has the property been sold. The trust period of 50 years has not yet commenced to run. The trustee in, violation of the terms of the trust, has diverted the property to other and different uses than was provided for by the trust. This must now be recovered by resort to the courts, and when recovered must be sold. If it should now be attempted to execute the trust in accordance with its terms, the fund would be paid to other and different generations than those in the minds of the Government and the Indians when the agreement of 1889 was entered into.

The Indians are fast scattering throughout the United States and the world. It is impracticable to continue the trust for a period of 50 years after the allotments are completed, and the property is all sold. To do so would be to deprive the Indians who would have taken the property had the trust been administered in accordance with its plain terms of their property and would pass the property on to succeeding generations. Public policy has decreed the dissolution of these tribal governments and the winding up of the estates. The present expense of administering this trust is prohibitive. If the costly administration of the past should continue, there would be no fund to divide in 50 years. Under such circumstances it is legal, just, and proper to all parties concerned to take such steps as will effectuate as nearly as possible the intention of the parties to the agreement of 1889. (*Sears v. Choate*, 146 Mass., 395.) This can be done by the consent of the United States and the Indians to the distribution of the funds among the present generation. Only 19 years would remain, if the trust had been administered as it should

have been. To defer distribution for 60 or 75 years more would be to deprive the very persons for whose benefit the trust was created of its fruits and benefits. Therefore, as the mistakes that have been made can never be righted, the nearest that can be done is to approximate the intention of the creators of the trust.

This was recognized by Congress in the act of May 18, 1916, which directed the distribution of one-fourth of the principal fund and which was distributed. This act on the part of the Federal Government may have created a liability, because the consent of the Indians was never obtained. By now obtaining their consent to the distribution of the funds no liability can arise and the fund will be distributed at approximately the time the parties to the agreement creating the trust intended.

Mr. HASTINGS. Has anybody taken a contrary view? Did the Indians?

Mr. BALLINGER. No, sir.

Mr. HASTINGS. Does the department?

Mr. BALLINGER. No, sir.

Mr. CARTER. That question of the power of Congress to do it has not been raised at all.

The CHAIRMAN. It has been brought out here in the investigation between the parties at issue that the department and the various members of the Chippewas of Minnesota agreed to about 75 per cent of the matters involved—I think it was said to be about two-thirds. Of course, they are dealing not only with the things involved in the dispute, but are discussing to some extent the things which have been agreed upon. It may be a good plan, Mr. Ballinger, as you go along further when you come to an undisputed point just to say that you are merely giving us information in regard to it, but that the matter is undisputed.

Mr. CARTER. The question, Mr. Chairman, of the power of Congress to deal with the agreement has never been disputed, but that point has never been raised at all. The only point raised was the moral obligation of Congress to carry out the agreement with the Indians, and the fact that those who succeed, who will be born hereafter, who are living at the end of this 50-year period, might, and perhaps will, come in with a claim against the Government for their pro rata share of this property, and upon that showing would have very good grounds at least to send it to the Court of Claims.

The CHAIRMAN. But as I understand this proposition as it exists to-day, the 50-year period has never commenced, because no part of the agreement has been put into effect, and until things occur the 50-year period does not begin to run, and if it goes on as it has been there will never be an end to the 50-year period.

Mr. BALLINGER. There will never be a commencement of the 50-year period until all the property is sold and the allotments are made.

The CHAIRMAN. That agreement has been in existence 31 years.

Mr. DALLINGER. Mr. Chairman, Mr. Ballinger said he thought he ought to get through to-day.

The CHAIRMAN. Yes.

Mr. DALLINGER. Now, then, I hope before he concludes, for the sake of clearness, that he will take up this bill, this committee print,

and just point out the things in contention between himself and the bureau.

The CHAIRMAN. I think that is a very good idea, but I do not want to limit Mr. Ballinger.

Mr. DALLINGER. Yes, I would rather that he would have more time to do that, too.

The CHAIRMAN. Yes, so that he can give us all the information that he has in the matter, and if he can not finish to-day I want to give him more time.

Mr. DALLINGER. Yes, I should think so, too, but my point is that I should like to have him give that information before he finishes.

The CHAIRMAN. But there is so much of it that he will necessarily have to be very concise with it or he will not get through this week.

Mr. BALLINGER. I hope I will, Mr. Chairman. There is a difference between the general council and the department with reference to the manner in which these funds can be divided. The position of the general council is that that can not be legally done without the consent of the Indians. The position of the department is that it is within the plenary power of Congress to divide the fund as it sees fit, and to do with it as it sees fit. That is one of the fundamental differences between the department and the Indians. It arose out of this fact, that for a series of years the Indian Bureau has been transmitting proposed legislation to Congress, taking the very vitals out of the trust created by the act of 1889, and has succeeded in obtaining the enactment of a part of that legislation.

Now, the department does not want to concede that the Indians should be consulted and shall have the right to say whether the agreement of 1889 shall or shall not be carried into effect. That is the real reason for the difference between the Indians and the department. Upon that point I again refer to the decision of the Supreme Court of the United States in the case of Minnesota against Hitchcock, reported in One hundred and eighty-fifth United States Reports. That decision was rendered two years prior to the decision in the case of Lone Wolf against Hitchcock, to which reference has been made, and in that decision the Supreme Court of the United States lays down clearly and concisely the nature of this trust and points out that the terms fastened upon the trust property by the agreement of 1889 can not be changed to the detriment of the Indians. Following that comes the decision in the Mille Lac case reported in Two hundred and twenty-ninth United States Reports. In that decision the distinction between this trust estate and the estate dealt with in the Lone Wolf case is clearly pointed out. I am going to take the time of the committee just for a moment to call your attention to it, because I feel certain that the particular nature of this trust estate has not been inquired into.

Mr. HASTINGS. I may agree with you as to Congress not having the moral right, and the Government not having the moral right, but I want to say that I have read nearly all the decisions of the Supreme Court of the United States on Indian questions, and I believe that they hold, as was held in the Lone Wolf case, decided in the One hundred and eighty-seventh United States Reports, that the Congress of the United States has the legal right to administer this trust

in the interest of the Indians and, as the Congress of the United States might decide, not taking anything away from them, but being careful to give to the Indians all of their property, I think that that is clearly decided in the One hundred and eighty-seventh United States Reports in the Lone Wolf case and in subsequent cases. If you have any cases to the contrary I have an open mind upon it.

Mr. CARTER. You mean that they have the right to do that without any reference to any agreement at all with the Indians?

Mr. HASTINGS. An agreement is no more than an act of Congress, and Congress has the right—I do not mean the moral right, but it has the legal right—to repeal trusts, to repeal agreements. Congress has no right to take property away, but to administer, to make rolls and to close the rolls, to say when those rolls shall be closed; I may not agree with that as a moral proposition; perhaps Congress ought not do that, but as a legal proposition I contend that that has been decided by the Supreme Court of the United States time after time and, so far as I know, they never have decided to the contrary.

Mr. BALLINGER. There is but little difference between myself and Mr. Hastings, except that the Lone Wolf case goes a little further than the statement that Mr. Hastings made, as I recall it, and the decision that I am now going to quote from will fully sustain the position just taken by Mr. Hastings, except that it goes a step further, in my judgment. Now, I read from the decision, the latter part of the decision in the case of the Mille Lac Indians *v.* the United States (229 U. S.). I may state briefly the question involved in that case. The Mille Lac Reservation was one of the reservations ceded to the United States under the agreement of 1889. Congress instead of disposing of the property on the Mille Lac Reservation, as the agreement of 1889 provided, passed two resolutions providing for its disposition under the homestead laws of the United States and under the preemption laws of the United States, diverting it from the purpose and intent of the agreement of 1889. Suit was brought to recover the value of that land from the United States. Not a dollar of the proceeds ever went into their trust funds. Now, I want to say in that connection that the Red Lake Indians, who are claiming the Red Lake Reservation exclusively, took their share of the judgment obtained in that case, and are participating, as are all the other Indians, in the division of the judgment from the Mille Lac lands. In the concluding portion of that decision the court says this:

As respects other lands in that tract—that is, such as were not within the terms of the proviso—we are of opinion that they came within the general provisions of the act, and were to be disposed of thereunder for the benefit of the Indians, in like manner as were the ceded lands in the other reservations, of which it was said in *Minnesota v. Hitchcock* (185 U. S., 373, 394): “The cession was not to the United States absolutely, but in trust. It was a cession of all of the unallotted lands. The trust was to be executed by the sale of the ceded lands and a deposit of the proceeds in the Treasury of the United States to the credit of the Indians, such sum to draw interest at 5 per cent.”

As above stated, the lands not within the proviso were disposed of, not under the act of 1889, but under the general land laws; not for the benefit of the Indians, but in disregard of their rights. This was clearly in violation of the trust before described, and the Indians are entitled to recover for the resulting loss. In principle it is as if the lands had been disposed of conformably to the act of 1889, and the net proceeds placed in the trust fund created by it, and the Government then had used the money,

not for the benefit of the Indians, but for some wholly different purpose. That the wrongful disposal was in obedience to directions given in two resolutions of Congress does not make it any the less a violation of the trust. The resolutions, unlike the legislation sustained in *Cherokee Nation v. Hitchcock* (187 U. S., 294, 307), and *Lone Wolf v. Hitchcock* (187 U. S., 553, 564, 568), were not adopted in the exercise of the administrative power of Congress over the property and affairs of dependent Indian wards, but were intended to assert, and did assert, an unqualified power of disposal over the lands as the absolute property of the Government. Doubtless this was because there was a misapprehension of the true relation of the Government to the lands, but that does not alter the result.

Mr. CARTER. Was this a suit to recover for the wrong that had been done the Indians?

Mr. BALLINGER. Yes, sir.

Mr. CARTER. I think that is in exact conformity with Mr. Hastings's statement. None of those homestead allotments had been canceled. The Indians sought not to have the homestead allotments canceled, but sought to be paid for that land that was taken in that way. I think that conforms exactly to Mr. Hastings's statement that Congress had the power under the decisions to do as it pleased with this tribal property, but just as I have stated several times in the past, that may result in a suit being brought by the Indians for recovery for the wrong that has been done.

Mr. BALLINGER. Mr. Carter, you are absolutely right.

Mr. CARTER. If the Indians went to court to have it determined, then they may get compensation. The point does not go to the power of Congress to change the agreement and make a different distribution than that provided for by the agreement, but the point goes to show that the Indians can recover if a wrong is done them by that power which Congress exercised.

Mr. HASTINGS. I was called to the phone and did not hear the discussion as it was going on. I have not read the decisions of the Supreme Court of the United States for the past two or three years, but I would be surprised with any decision of the Supreme Court of the United States that did not say that Congress had the plenary power to wind up any Indian affairs, divide up the land, and distribute their money as in the judgment of Congress would be to the best interests of the Indians, provided that nothing was taken away from them. That is the position I take. I say that it makes no difference in law whether there have been previous agreements or not. I not do suppose that there is any tribe that has not had agreements and treaties made with the Government of the United States. Some of them run back as far as a hundred years. Now, I will assert that the decisions hold that those treaties are no more than acts of Congress, and agreements are no more than acts of Congress, and that treaties, agreements, and acts of Congress can all be repealed by the Congress of the United States and new legislation enacted, provided that the whole estate is administered and nothing taken away from it.

Mr. BALLINGER. Let me make a few observations here. I think we practically agree. I think it is universally agreed that morally Congress has no right to do that.

Mr. HASTINGS. I have tried to say that I do not agree that morally they could do that. I tried to emphasize that.

Mr. BALLINGER. Mr. Chairman, according to recent pronouncements from high sources, moral obligations are of greater import than legal obligations.

The CHAIRMAN. We are not considering that at the present moment.

Mr. BALLINGER. Now, I want to suggest this to my friend. An agreement may be changed prior to the time that property rights attach, but when property rights attach, then I submit that Congress, the Government of the United States, a party to the agreement, can not change it. Otherwise it would be a unilateral agreement. Now, in this case at point there was an agreement creating a perfect trust. A provision was made for the cession of land to the United States in trust to be disposed of specifically as provided in the agreement creating the trust. Now, when that land was ceded to the United States in trust a trust was created, and the property was surrounded by every provision of that agreement creating the trust. I am not willing to concede that Congress has the power at this late day without the consent of the other party to the agreement to change or alter or modify that trust thus created. Now, Mr. Chairman, I am not going to occupy any more of the time of the committee at this point. We have the print here of the department bill and of the bill that was approved by the General Council. I have not had opportunity to examine the departmental print, and I do not want unnecessarily to take up your time. Therefore, if I can have until to-morrow morning I think I can state it in much less time than I can now.

The CHAIRMAN. Yes. Mr. Ballinger, are there any members of the General Council who desire to be heard in this connection?

Mr. BALLINGER. No one else for the General Council.

The CHAIRMAN. Then, who desires to open for the opposition?

Mr. MERITT. Mr. Chairman, inasmuch as Mr. Ballinger has had considerable time to present his side of the case, we would like to have as much time as has been allowed Mr. Ballinger to present the other side of the case. There will be several gentlemen who will wish to make their statements, but we will keep our arguments within the time allowed to Mr. Ballinger.

The CHAIRMAN. Do you include in that those who oppose the argument on the part of the Red Lake people?

Mr. MERITT. Yes, sir.

The CHAIRMAN. There is some one here from the Red Lake Band who will speak for them particularly?

Mr. MERITT. Yes, sir.

The CHAIRMAN. And give their reasons for their opposition to the proposition?

Mr. MERITT. Yes, sir.

The CHAIRMAN. I see no reason why the committee would not desire to give you all the time you want to present your side of it. We are ready to discuss this matter from all of its angles, with the hope that we may be able to bring about a solution of the whole situation. Therefore I think the committee is willing to give whatever time is necessary to hear all parties at interest. Do you desire to proceed now, Mr. Meritt?

Mr. MERITT. Yes, sir.

The CHAIRMAN. Gentlemen, we will hear from Mr. Meritt.

STATEMENT OF MR. EDGAR B. MERITT, ASSISTANT COMMISSIONER OF INDIAN AFFAIRS.

Mr. MERITT. Mr. Chairman, it is apparent that Mr. Ballinger has given a great deal of thought to this Chippewa situation and a great deal of time has been taken by Mr. Ballinger in preparing his statement before this committee. My time is so fully taken up with other matters in the Indian Bureau that I shall not attempt to answer in detail all of the points brought out by Mr. Ballinger, but I will in an extemporaneous and offhand sort of way attempt to answer some of the points raised by him wherein I believe he may have given the committee a wrong impression regarding some of the facts and circumstances in connection with this Chippewa situation. In my statement to the committee yesterday, I included the report and the bill that had been submitted to the department, referring all the claims of the Chippewa Indians to the Court of Claims. The department is perfectly willing that every claim that the Chippewa Indians have against the Government shall go to the Court of Claims with the right of appeal to the Supreme Court for final adjudication. That is our policy in regard to all Indian claims. We are willing that all Indian tribes in the United States shall have the right to go to the Court of Claims and try out their claims against the Government.

I also included in my statement yesterday the report of the Secretary of the Interior on the bill now under consideration, together with a redraft of that bill, which expresses the views of the department. We took a great deal of time on this bill. Probably more time and attention was given this bill than any other that has come to the Indian Office in a great many months. We had conferences with the various representatives of the Indian Bureau, with Mr. Ballinger, and members of the Chippewa Council; and also with Mr. Peter Graves, who represents the Red Lake Indians, and with Mr. Henderson who represents the Red Lake Indians as their attorney. I believe we have submitted a bill here that is fair to the Chippewa Indians of Minnesota, as well as to the Government. We attempted in that bill to exclude the questions that would go to the Court of Claims for adjudication, in this jurisdictional bill. The question was raised yesterday as to whether or not the two bills should be combined, so that if one bill goes through Congress the other bill would get through. Our position on that point is this. We think that the jurisdictional bill should go through Congress as a separate measure, but we have no objection to the jurisdictional bill being added to the legislative bill, provided the bill is passed by Congress in approximately the form submitted to this committee by the department.

The CHAIRMAN. Right there: Suppose the committee sees fit to rearrange to a considerable extent the bill that you have presented, what effect would that have upon the carrying out of the bill provided we do make some changes and add the jurisdictional section to the bill? Will it have the effect of making it abortive, or anything of that sort?

Mr. MERITT. We do not want any legislation by Congress regarding controversies as to the title of the Red Lake Reservation. We prefer to have that question go to the courts for final adjudication.

The CHAIRMAN. Will there be an obligation that will make the law negative provided changes are made and the bill goes through as a unit, the two bills together?

Mr. MERITT. That would depend, of course, upon the legislation that was incorporated in the bill. It would be inconsistent for Congress to declare, for example, that the title to the Red Lake Reservation was in the Red Lake Indians, and at the same time submit that question to the Court of Claims for adjudication. I wish at the outset to impress upon this Indian Committee of Congress that the Chippewa situation is very complicated, and there are many factions among the Chippewa Indians representing varying views. During the absence of the chairman and within the last month we had about 20 Chippewa Indians from the Chippewa country protesting against certain recommendations that had been made and they came before this committee and were heard at that time. There has been enacted by Congress legislation regarding the White Earth Reservation.

This legislation is found in the Indian appropriation acts of 1906 and 1907. I want to take pointed issue with Mr. Ballinger in his statement that the Indian Bureau is responsible for that legislation. The Indian Bureau had nothing to do with it. We were opposed to the legislation and we think that it resulted in frauds that are probably unparalleled in the history of Indian legislation. That legislation resulted in a large number of the members of the White Earth Reservation being defrauded outrageously of their property rights. The lumbering interests of Minnesota profited to the extent of millions of dollars by that legislation. The land grafters around that reservation after the lumbering interests had gotten the timber profited very greatly in getting hold of the land of the Indians. The jurisdiction of the department was removed over all adult Indians of less than full blood and we were powerless to protect these White Earth Indians. I wish that the committee might find time to read the report of the congressional committee that investigated these frauds. What is known as the Graham congressional committee went to Minnesota and they have several volumes printed showing the frauds that were perpetrated against those White Earth Indians. They were outrageous. They are unequalled in the history of the Indian Service, and I want it distinctly understood that the Indian Bureau was not responsible for that legislation in any way. Now, Mr. Chairman, with the experience that we had in connection with the White Earth Reservation we have been exceedingly careful as to what legislation was enacted in connection with the Red Lake Reservation. We don't want a repetition of the White Earth scandals on the Red Lake Reservation. Certain timber interests of Minnesota have had their eyes on the valuable timber on the Red Lake Reservation for many years.

We do not propose that the lumbering interests of Minnesota shall get the timber on the Red Lake Reservation without adequate compensation to the Red Lake Indians. Mr. Ballinger has referred to the expensive drainage that will be required on the Red Lake Reservation. I wish to invite the attention of the committee to legislation that is now pending before Congress authorizing the drainage of this reservation, and I wish to state that it is perhaps the cheapest drainage connected with any reservation in the United States. It will cost less than \$3 per acre to drain the lands of the Red Lake Reservation and make them fit for farming.

Mr. MERITT. My statement in regard to this matter can be confirmed by reports that have been submitted to Congress; also by Mr. Steenerson, who represents that district in Congress.

Mr. CARTER. By whom were the reports submitted?

Mr. MERITT. By the Secretary of War; and for the information of the committee I will include reference to the documents in my statement.

The CHAIRMAN. That will be very desirable.

Mr. MERITT. See House Document No. 61, Sixty-sixth Congress, first session.

Mr. CARTER. Were they made by engineers, the estimates?

Mr. MERITT. Yes, sir. Mr. Ballinger made the statement that the Indian Bureau procured the act of Congress of 1916 relating to the Red Lake Forest Reserve.

Mr. BALLINGER. 1916.

Mr. MERITT. Mr. Ballinger is absolutely mistaken in that statement. The statement was made that we procured that legislation in order to perpetuate the Indian Bureau.

The CHAIRMAN. He qualified that statement afterward by stating that it was procured in order to perpetuate it with regard to its activities in Minnesota.

Mr. MERITT. That statement is absolutely incorrect, gentlemen of the committee. The Indian Bureau did not initiate that legislation. That legislation was initiated by Members of Congress from the State of Minnesota, and my statement can be confirmed by calling up ex-Senator Clapp, who was formerly chairman of the Committee on Indian Affairs in the Senate. Senator Clapp himself presented that legislation to the Senate committee and got the legislation incorporated in the Indian bill.

Mr. CARTER. Was it submitted to the department for recommendation and report?

Mr. MERITT. I think it was submitted to the department for recommendation and report, and we suggested certain modifications inasmuch as they were going to include the legislation in the bill.

Mr. CARTER. Were they put in the bill?

Mr. MERITT. I do not recall the details of it, but I know that the Indian Office had nothing to do with the initiating of that legislation, but it was included in the Indian bill at the suggestion of Senator Clapp. So much for that statement that we procured that legislation in order to perpetuate the Indian Bureau on the Red Lake Reservation. Now, the statement that Mr. Ballinger made that the Red Lakes are compelled to live on the reservation in order to protect their property holdings is very misleading. We do not require the Red Lake Indians to live on the reservation and they will not lose their property rights if they go off the reservation and get employment outside the reservation.

The CHAIRMAN. Have they lost their property rights by going away at any time?

Mr. MERITT. No, sir; they have not.

The CHAIRMAN. In no particular case?

Mr. MERITT. No, sir.

Mr. CARTER. Suppose one should leave and take his family with him and absent himself from the reservation for say three or four years, would that have any effect on it?

Mr. MERITT. If he is a member of the Red Lake Reservation and is on the rolls of the Red Lake Reservation it would not deprive him of any of his property rights on the reservation. We have Indians on the rolls now and these Indians will share in the property.

The CHAIRMAN. How long has that roll been completed?

Mr. MERITT. We have had that roll for a number of years.

Mr. HASTINGS. It is not a final roll?

Mr. MERITT. It will not be a final roll until this act is passed. This act will require the making of a final roll, but we will use this roll in making up the final roll.

Mr. HASTINGS. It would not be a final roll anyway, under the existing law.

Mr. MERITT. Not under the existing law.

Mr. HASTINGS. Suppose this legislation is not passed, have you now a final roll of this band of Indians?

Mr. MERITT. We have not a final roll, because children born are added to the roll.

The CHAIRMAN. Is it pretty nearly up to date?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. Now, has the department the authority to take off the roll the name of anyone that is on it now?

Mr. MERITT. If they are on there by fraud we have the authority to take their names off the roll.

The CHAIRMAN. Who determines the question of authority?

Mr. MERITT. The Secretary of the Interior. So much for that misleading statement regarding the Red Lake Indians leaving the reservation. Now, as to the title of the Red Lake Indians to the Red Lake Reservation. You will note that Mr. Ballinger in his statement was careful not to refer to the act of 1904 until I handed the members of the committee the law on yesterday and invited their attention to a certain article in that act. That agreement with the Red Lake Indians was made by Maj. McLaughlin, United States inspector, a gentleman who has been in the Indian Service almost half a century, and he has made more treaties and agreements with the Indians than any other living man, or any other man in the history of the United States. We have with us this morning Maj. McLaughlin, and I want him to be given an opportunity to make a statement to the committee in regard to this agreement.

The CHAIRMAN. Would you like to have him make the statement now, Mr. Meritt?

Mr. MERITT. No, sir; not just at this time.

Mr. CARTER. What is the contention?

Mr. MERITT. The contention is that the Red Lake Indians do not own the Red Lake Reservation; that the Chippewa Indians generally, after the Red Lake Indians have received allotments, will share in the surplus property of the Red Lake Indians.

Mr. CARTER. You contend that that is not true?

Mr. MERITT. We contend that Congress is on record as recognizing the rights of the Red Lake Indians to the Red Lake Reservation.

Mr. CARTER. And recognizing them alone?

Mr. MERITT. Recognizing them only.

Mr. HASTINGS. Through this act of 1904?

Mr. MERITT. Through the act of 1904, and also in the act of 1916--

Mr. CARTER. Is the act of 1904 an agreement or——

The CHAIRMAN. An agreement.

Mr. MERITT. An agreement which was subsequently enacted by Congress.

Mr. HASTINGS. As all agreements are.

The CHAIRMAN. Well, now, is that right—"as all agreements are"?

Mr. MERITT. No, sir; all agreements are not enacted by Congress. This agreement was modified by Congress before being finally enacted.

Mr. CARTER. Let me ask you a question. Is it not necessary for an agreement to be ratified by Congress before it becomes a binding agreement—an agreement with the tribe, I mean?

Mr. MERITT. Yes, sir.

Mr. CARTER. Is it or is it not the practice of Congress to modify those agreements when they come before Congress?

Mr. MERITT. Congress has refused to approve some agreements and some treaties, and Congress has modified some agreements and treaties. Now, in this agreement with the Red Lake Indians we find article 4, which reads as follows:

It is further agreed that the said Indians belonging on said Red Lake Reservation in Minnesota shall possess their diminished reservation independent of all other bands of the Chippewa Tribe of Indians and shall be entitled to allotments therein of 160 acres each of either agricultural or pine land, the different quarters of land to be apportioned as equitably as possible among the allottees.

That part of the agreement is carried in the act of Congress, and Congress in the act of February 20, 1904, has recognized and enacted this provision of the agreement, and I think it is in the exact language.

Mr. CARTER. Was that in the original agreement?

Mr. MERITT. That was in the original agreement.

Mr. CARTER. Before it was modified?

Mr. MERITT. It was in the act of Congress which passed.

Mr. CARTER. How was this agreement ratified—I mean not by Congress, but by the Indians?

Mr. MERITT. I will ask Maj. McLaughlin to give you the details of that.

Mr. HASTINGS. Is that an agreement with all the bands of the Chippewas?

Mr. MERITT. This is an agreement with the Red Lakes alone.

The CHAIRMAN. An agreement with the Red Lakes alone.

Mr. HASTINGS. You say that it is your recollection that this section was not changed?

Mr. MERITT. It is my recollection that it was not changed by Congress.

Mr. HASTINGS. There was some changes, however, made in the agreement by Congress.

Mr. MERITT. There were some slight changes made in the agreement by Congress.

Mr. DALLINGER. Was this agreement assented to by all the Chippewa Indians?

Mr. MERITT. No, sir.

The CHAIRMAN. Mr. Meritt can not state whether this agreement was ratified by the Indians after it passed Congress or not.

Mr. HASTINGS. Did they not reject it?

Mr. BALLINGER. Mr. Meritt, as a matter of fact, after Congress modified this agreement and included it in the act of 1903, the Indian appropriation bill, it was submitted to the Indians and was rejected by the Indians, and then it came back here and was included in the act of 1904, the act of Congress, and was never resubmitted to them.

Mr. MERITT. Mr. Chairman, this provision that I am going to quote is on the statute books of the United States and has been passed by Congress, and I think it is exactly in the language of the agreement of the Chippewa Indians. We do not want to overlook that fact that the agreement with the Red Lake Indians was to the effect that the Red Lake Reservation should belong to the Red Lake Indians. There is no dispute as to that point.

Mr. CARTER. But, as I understand that, the other bands of the Chippewas were not consulted about that?

Mr. MERITT. The other bands of Chippewas were not consulted about the Red Lake agreement.

Mr. CARTER. But the same lands were included in the agreement of 1889, were they not?

Mr. MERITT. The agreement of 1889 covered all of the Chippewa lands.

The CHAIRMAN. Including the Red Lakes?

Mr. MERITT. Including the Red Lakes, but the Red Lake Indians, it should be remembered, had a distinct understanding with the commissioners in 1889, prior to the passage of the Nelson Act, that the Red Lake Reservation was to belong exclusively to the Red Lake Indians.

Mr. CARTER. Was that in the agreement of 1889?

Mr. MERITT. That was not in the agreement of 1889, but that was the understanding with the Red Lake Indians.

The CHAIRMAN. Is there any record of that understanding?

Mr. CARTER. I was about to ask the same question.

Mr. MERITT. I will have to look up the records in order to determine that.

The CHAIRMAN. If you should find anything of that sort, you have permission to put it into the record at this point.

Mr. MERITT. In order that it may appear in the record, I want to read what was enacted by Congress on this provision relating to title to the Red Lake Indians. It is found on page 48 of the act, 33 Statutes at Large, in the act of February 20, 1904, and I think it is in exactly the language of the agreement with the Red Lake Indians:

ARTICLE 4. It is further agreed that the said Indians belonging on the said Red Lake Reservation in Minnesota shall possess their diminished reservation independent of all other bands of the Chippewa Tribe of Indians, and shall be entitled to allotments therein of 160 acres each of either agricultural or pine land, the different quarters of land to be apportioned as equitably as possible among the allottees.

You will see, gentlemen, that Congress is on record as recognizing that the lands within the Red Lake Reservation belong to the Red Lake Indians.

The Indian Bureau is an administrative branch of this Government, and it is our duty to follow the legislation enacted by Congress. In performing that duty we have recognized the fact that the Red Lake Reservation belongs to the Red Lake Indians. Now, Congress has also recognized the right of the Red Lake Indians in the Indian ap-

appropriation act of May 18, 1916, wherein it created the Red Lake Indian Forest Reserve, and authorized the distribution and sale of certain of that timber, the funds to go to the Red Lake Indians.

Mr. HASTINGS. After this act of 1904 was passed recognizing the right of the Red Lake Indians, how soon was there any protest in behalf of the other bands they recognized?

Mr. MERITT. We have not had any protests, except very recently, and I think it has been brought about somewhat because of the fact that the White Earth Indians had gone through with their property. They have been given their allotments. They have disposed of them under the amendment that I have pointed out, and as a result to-day 80 per cent of the White Earth adult mixed-blood Indians are without their lands, and having gone through with their allotments they now want to take part of the lands belonging to the Red Lake Indians. At least, that is what the Red Lake Indians claim.

Mr. CARTER. Under that act, Mr. Meritt, how was the degree of blood determined—that is, what procedure was necessary to distinguish the mixed blood from the full blood?

Mr. MERITT. That unfortunate legislation was so worded that it did not provide that the department should make a roll of the White Earth Indians separating the mixed bloods from the full bloods. It was passed, as I stated, without our solicitation and resulted in great confusion and loss to the White Earth Indians; and we have attempted to straighten this matter out, not only through our department but through the Department of Justice. We have prepared a roll of the mixed-blood Indians and a roll of the full-blood Indians on the White Earth Reservation.

Mr. CARTER. Well, you have not answered the question. The inquiry that I made, Mr. Meritt was, How was the degree of blood determined in the absence of a roll?

Mr. MERITT. It was determined by data in the office of the department here in Washington, and also in the office of the superintendent at the White Earth Reservation, and upon testimony of various people.

Mr. CARTER. What tribunal determined it?

Mr. MERITT. Congress in the Indian Appropriation act of a few years ago directed that there should be a commission appointed to straighten out this complication.

Mr. CARTER. But originally what tribunal determined the degree of blood?

Mr. MERITT. The Secretary of the Interior was the final authority.

Mr. CARTER. I thought the courts determined it.

Mr. MERITT. It was complicated somewhat and a great many of them had to go into court, where they were alleged to be mixed bloods; the department did not have any jurisdiction over it.

Mr. CARTER. Suppose a man claiming to be a mixed blood desired to sell his land. What procedure was necessary for that fellow to sell his land?

The CHAIRMAN. You are referring to the White Earths?

Mr. CARTER. I am referring to the White Earths.

Mr. MERITT. If he was an adult mixed blood there was no procedure necessary for him to sell the land beyond simply executing a deed to the land.

Mr. CARTER. Well, then, when was his degree of blood determined? That is the point I am trying to get at.

Mr. MERITT. It was determined by the department and by this commission authorized by Congress.

Mr. CARTER. But the commission was not provided for at the time the Clapp amendment was passed, as I understand it. Now, before that how was the determination of the degree of blood brought in order that a fellow might be entitled to alienate his property, under the Clapp amendment per se?

Mr. MERITT. We did not anticipate that legislation, therefore we did not prepare the roll to conform to that legislation. The Secretary of the Interior, however, had the rolls prepared and we thought we knew who were full bloods and who were mixed bloods.

Mr. CARTER. I will assume that the chairman is a White Earth Chippewa Indian—

The CHAIRMAN. I have been called all kinds of Indians, but never a Chippewa before.

Mr. CARTER. But we will assume that he is, and that he makes a transfer of his allotment. Was there any procedure whatever necessary to validate that transfer? If he were a mixed blood, there would be no procedure necessary except that he would simply execute a deed. How would it be determined that he was a mixed blood?

Mr. MERITT. The department had to take the testimony of different people.

Mr. CARTER. The Secretary of the Interior did that, and not the courts?

Mr. MERITT. I know the courts had jurisdiction if he was a mixed blood, but if a full blood the Secretary of the Interior had jurisdiction. Under the Clapp act the courts held that any Indian possessing any degree of white blood was a mixed blood.

Mr. HASTINGS. That was a question of fact.

Mr. MERITT. It was a question of fact.

Mr. HASTINGS. To be determined in any case.

Mr. MERITT. To be determined in any case.

Mr. HASTINGS. And, as a matter of fact, the purchaser in each one of those cases had to take affidavits to the effect that the fellow was less than full blood, did he not?

Mr. MERITT. Yes, sir.

Mr. HASTINGS. I imagined that is what he did.

Mr. MERITT. And under that amendment a great many full bloods, in order to sell their land, would make affidavits that they were mixed bloods in order to get the money. Now, as to the forest reserve created by the act of 1908 covering Indian lands, I want to state that the Indian Bureau had nothing whatever to do with that legislation. We think that that legislation was unfair to the Chippewa Indians and we very willingly consented to the legislation in the bill that this timber which belongs to the Chippewa Indians shall be sold and that the proceeds shall go to the owners of the timber. I think that Mr. Ballinger will confirm that statement. Now, as to the number of agencies in the Chippewa country. The impression has been given the committee that we have a great many unnecessary agencies among the Chippewa Indians. I want to state, Mr. Chairman, that we have at this time in the Chippewa country, I think, four agencies—one at Red Lake, where there are about 1,500 Indians; one covering the Leech Lake jurisdiction, where there are

about 1,700 Indians; one covering the Fond du Lac jurisdiction and outlying districts, where there are about 2,000 Indians; and one at White Earth Reservation, where there are about 6,794 Indians.

The CHAIRMAN. Those figures do not quite agree with the figures given by Mr. Ballinger, and his statement that 60 per cent of the 12,000 Indians that you are legislating for up there do not exist any more upon those reservations.

Mr. BALLINGER. That would depend upon where he got the figures.

The CHAIRMAN. Mr. Meritt mentioned that there are about 12,000 Indians up there in those reservations.

Mr. MERITT. There are about 12,000 Indians, and there are about six or seven thousand of those Indians who are no longer under the jurisdiction of the department.

Mr. BALLINGER. Then those agencies really have charge of only about 6,000 Indians, then?

Mr. MERITT. Those four agencies are supervising the affairs of about 6,000 Indians where restrictions have not been removed, but it should be remembered that these other Indians still have an interest in the Chippewa fund, and it is necessary to pay out money to those Indians, notwithstanding that they have received patents in fee. Now, in order that the record may show that I will ask to have included in my statement a table showing exactly the number of patents in fee that have been issued among the Chippewa Indians on the reservations.

The CHAIRMAN. And will you include in that the period over which that extends, as nearly as you can?

Mr. MERITT. This statement shows patents having been issued from May, 1906, to June 30, 1918.

The CHAIRMAN. It is so ordered.

Mr. MERITT. The statement is as follows:

Patents in fee issued under act of May 8, 1906, as modified by acts of May 29, 1908, and June 25, 1910.

Reservations.	Patents in fee issued from—		Total.
	May 8, 1906, to June 30, 1919.	June 30, 1919, to Jan. 20, 1920.	
White Earth.....	¹ 3,766	² 800 ³ 1,200	5,766
Leech Lake.....	293	54	347
Fond du Lac.....	95	31	126
Grand Portage.....	44	19	63
Nett Lake.....	51		51
Total.....	4,249	2,104	6,353
CERTIFICATES OF COMPETENCY.			
Lac Courte Oreille.....	156	20	176
Lac du Flambeau.....	29		29
La Pointe (Bad River).....	197	49	246
Red Cliff.....	66	17	83
Total.....	448	86	534
Grand total.....	4,697	2,190	6,887

¹ Restrictions removed under act June 21, 1906 (34 Stat. L., 353).

² Recommended.

³ Issued.

Mr. MERITT. I might say further that we do not want to retain under our jurisdiction a single Indian who is competent and who is able to handle his own affairs. We would be very glad to get every Indian who is competent out from under the jurisdiction of the Indian Bureau.

The CHAIRMAN. If this proposed legislation should become a law how many Indians would it leave up there under restriction, how many of the 6,000?

Mr. MERITT. It would probably release between three and four thousand Indians.

The CHAIRMAN. How does your estimate of the time that the affairs of the Chippewas can be wound up in case this legislation shall become effective, agree with Mr. Ballinger's, as to the administration of the bureau, the activities of the bureau, in connection with these Chippewa Indians?

Mr. MERITT. I think that the activities of the Indian Bureau would be reduced at least 50 per cent within the next five years if this legislation that we have proposed shall be enacted by Congress.

Mr. HASTINGS. Has all the land been surveyed, appraised, and graded? I was wondering whether or not these details would have to be completed.

Mr. MERITT. I think some of the land would have to be appraised. I do not think all of it has been appraised.

Mr. HASTINGS. All of it has been surveyed?

Mr. MERITT. All of it has been surveyed. Now, as to the employees in the Indian Service in Minnesota, Mr. Ballinger gave the impression that we had a great many unnecessary employees at these agencies and schools. I want to furnish the committee with a list of the employees now at all of the schools and agencies in the Chippewa country, and I wish the committee would take the time to notice the salaries of those employees, and the small amount of money that is being paid out for this service compared with the amount of money that is being paid for employees now outside of the Government service. I think the average salary of the employees among the Chippewa Indians will be considerably less than \$800 a year.

The CHAIRMAN. Now, Mr. Meritt, I would like to ask you two or three questions of a general character with regard to situations like that. It is claimed by Mr. Ballinger that there is a large number of unnecessary employees; and you claim that the salaries of all the employees are very small. What would you say to the proposition of eliminating 50 per cent of all the employees and increasing the salaries of the remainder of them? What would be the effect of that upon the general situation?

Mr. MERITT. It would be impracticable, Mr. Chairman, from the administrative standpoint.

The CHAIRMAN. Everybody will concede that if those men are doing anything that an average salary of \$800 is simply absurd. It is my belief that you could reduce the force 50 per cent, and that much money could be saved by paying the remainder of the employees a sufficient salary that would enable you to get a higher grade of employees, and that the service would thereby be greatly benefited.

Mr. DALLINGER. I understand that Mr. Ballinger's contention was that a great many of those employees could be dispensed with. He mentioned several specific instances, one being where there was a

public school that was very much better than the school that was being maintained by the Government, with plenty of room to take care of those pupils. Why, in that instance, could not the pupils be put in the public schools?

Mr. MERITT. In answer to that question I will say that we have been materially reducing the number of students in the Government schools among the Chippewa Indians, and it is our desire that the children be gotten out of the Government schools and into the public schools as quickly as possible. It has been shown in hearings before this committee and before the Senate committee that we get Indian children out of the Government schools and into the public schools wherever practicable.

The CHAIRMAN. I think we have forced that situation about to the limit for the present.

Mr. MERITT. Mr. Chairman, in order that Congress and everybody may have information about the employees among the Chippewa Indians, I would like to have this statement go into the record.

The CHAIRMAN. It is so ordered.

Mr. MERITT. The statement follows:

AVERAGE SALARIES IN FOND DU LAC INDIAN SCHOOL, MINNESOTA.

[Payable from "Interest on Chippewas in Minnesota Fund."]

Superintendent.....	\$1, 600
Nett Lake day school (capacity, 60):	
Teacher.....	720
Housekeeper.....	300
Grand Portage day school (capacity, 30):	
Teacher.....	900
Housekeeper, \$30 month.....	300
Vermilion Lake boarding school, caretaker.....	600
Total.....	4, 420

Fond du Lac Agency, Minn.

Position.	Rate of pay.	Total.	Payable from—
White:			
1 clerk.....	\$1, 100	\$1, 100	Chippewa in Minnesota, fund, 1920.
Do.....	780	780	
1 financial clerk.....	600	600	
1 laborer.....	600	600	
Total.....		3, 080	
1 stenographer 6 months, per month.....	75	450	Expense account, timber.
Hospital:			
1 physician (white).....	2 1, 200	1, 200	Chippewa in Minnesota, fund 1920
1 nurse (white).....	2 660	660	
Do.....	2 600	600	
1 cook (Indian).....	2 500	500	
1 laborer (Indian).....	2 500	500	
1 housekeeper (Indian).....	2 300	300	
Total.....		3, 760	
Miscellaneous:			
1 chief of police, per month....	50	600	Pay of Indian police, 1920.
1 private.....	25	300	
Total.....		900	
NETT LAKE SUBAGENCY.			
White, 1 physician.....	1, 200	1, 200	Chippewa in Minnesota fund, 1920

Fond du Lac Agency, Minn.—Continued.

Position.	Rate of pay.	Total.	Payable from—
NETT LAKE SUBAGENCY—contd.			
Indian:			
1 Laborer.....	\$480	\$480	Chippewa in Minnesota fund, 1920.
1 interpreter.....	300	300	
Total.....		780	
Miscellaneous:			
1 private, per month.....	30	360	Pay of Indian police, 1920.
Do.....	20	240	
Total.....		600	
1 scaler, not exceeding 6 months, per month.....	80	540	Expense account, timber.
GRAND PORTAGE SUBAGENCY.			
White, 1 physician (contract).....	720	720	Chippewa in Minnesota fund, 1920.
Miscellaneous:			
1 private, per month.....	30	360	Pay of Indian police, 1920.
1 forest guard, 6 months, per month.....	50	300	Industrial work and care of timber, 1920 (Forestry).

¹ Effective Jan. 1, 1920.² Allowed subsistence when actually on duty.*Average salaries in Leech Lake Indian School, Minnesota, capacity, 90.*

[Payable from "Chippewas in Minnesota Fund."]

Superintendent.....	\$1,800
Disciplinarian.....	¹ 600
Principal.....	900
Teacher.....	690
Do.....	630
Industrial teacher.....	¹ 660
Matron.....	¹ 540
Seamstress.....	¹ 500
Laundress.....	480
Cook.....	¹ 500
Engineer.....	¹ 720
Assistant.....	¹ 480
Total.....	8,500
Cass Lake Boarding School (capacity, 40):	
Principal.....	1,000
Teacher.....	600
Matron.....	540
Seamstress.....	300
Cook.....	300
Assistant.....	300
Laborer.....	600
Laborer, 5 months, at \$40 per month.....	² 200
Total.....	3,840

¹ Payable from "Support of Chippewas of the Mississippi, Minnesota, 1920."² Employed from Nov. 1, 1919, to Mar. 31, 1920.

Leech Lake Agency, Minn.

Position.	Rate of pay.	Total.	Payable from—
White:			
1 clerk.....	\$1,100	\$1,100	
Do.....	1,200	1,200	
3 physicians.....	1,200	3,600	
1 blacksmith.....	900	900	
1 sawyer and marine engineer.....	900	900	
1 farmer.....	900	900	Chippewas in Minnesota fund, 1920.
Total.....		8,600	
Indian:			
1 laborer.....	500	500	
Do.....	600	600	
Total.....		1,100	Do.
1 laborer.....	720	720	Two-thirds Chippewas in Minnesota fund, 1920, and one-third interest on Chippewas in Minnesota fund (education).
Miscellaneous:			
2 judges.....	84	168	Pay of judges, Indian courts, 1920.
1 chief of police, per month.....	25	300	
2 privates, per month.....	30	720	
6 privates, per month.....	20	1,440	
Total.....		2,460	Pay of Indian police, 1920.
1 timber clerk.....	1,200	1,200	
1 scale inspector.....	1,200	1,200	Chippewas in Minnesota fund.
Total.....		2,400	
1 assistant timber clerk.....	1,000	1,000	
Do.....	900	900	
15 scalers, not exceeding 3 months, per month.....	90	4,050	
Total.....		5,950	Expense account, timber.
1 nurse.....	720	720	
1 cook.....	500	500	
Total.....		1,220	Relieving distress and prevention, etc., of diseases among the Indians, 1920.

¹ Employed under act of June 27, 1902 (32 Stat. L., 400).

Average salaries in Red Lake Indian School, Minn., capacity 75.

[Payable from "Interest on Chippewas in Minnesota fund."]

Superintendent.....	\$1,700
Principal.....	900
Teacher.....	630
Do.....	630
Matron.....	600
Assistant matron.....	300
Seamstress.....	480
Laundress.....	480
Cook.....	480
Engineer.....	720
Night watchman.....	300
Laborer.....	360
Do.....	420
Total.....	8,000

Cross Lake School, capacity 93:

Principal.....	\$1,000
Teacher.....	600
Kindergartner.....	600
Matron.....	540
Assistant matron.....	480
Seamstress.....	480
Disciplinarian.....	720
Laundress.....	450
Cook.....	480
General mechanic.....	720
Laborer.....	600
Laborer, 6 months, \$25 per month.....	150
Total.....	6,820

Red Lake Agency, Minn.

Position.	Rate of pay.	Total.	Payable from—
White:			
1 clerk.....	\$1,200	\$1,200	Indian moneys, proceeds of labor, Red Lake Indians (support, 1920).
1 assistant clerk.....	720	720	Do.
1 financial clerk.....	600	600	Do.
1 physician.....	1,400	1,400	Do.
Do.....	1,200	1,200	Do.
1 engineer.....	1,200	1,200	Do.
1 farmer.....	900	900	Do.
1 carpenter.....	600	600	Do.
1 laborer.....	360	360	Do.
Total.....		8,180	Chippewas in Minnesota fund, 1920.
1 assistant clerk.....	900	900	Indian moneys, proceeds of labor, Red Lake Indians (support), 1920.
1 timberclerk.....	900	900	Red Lake Forest 4 per cent fund.
Hospital:			
1 nurse (white).....	720	720	
1 cook (white).....	600	600	
1 laborer (white).....	600	600	
2 assistants (Indian).....	1 300	600	
1 assistant (Indian).....	600	600	
Total.....		3,120	Chippewas in Minnesota fund, 1920.
Indian:			
1 blacksmith.....	720	720	
Do.....	600	600	Indian moneys, proceeds of labor, Red Lake Indians (support), 1920.
1 interpreter.....	300	300	
Total.....		1,620	
1 logging foreman.....	1,200	1,200	Indian moneys, proceeds of labor, Red Lake Indians (sawmill), 1920.
Miscellaneous:			
1 farmer.....	900	900	Industrial work and care of timber, 1920 (A. & S.)
2 judges.....	84	168	Pay of judges, Indian courts, 1920.
1 chief of police, per month... ..	40	480	
4 privates, per month.....	30	1,440	
Total.....		1,920	Pay of Indian police, 1920.
3 forest guards, 3 months.....	60	540	Industrial work and care of timber, 1920 (Forestry).
1 ranger.....	1,200	1,200	
1 deputy supervisor of forests.....	1,400	1,400	
6 scalers.....	1,080	6,480	
Total.....		9,080	Red Lake Forest 4 per cent fund.
2 scalers.....	1,080	2,160	Indian moneys, proceeds of labor, Red Lake Indians (sawmill), 1920.
1 clerk, for not exceeding 3 months, per month.....	90	2 270	Do.

¹ Includes subsistence.² Effective Dec. 23, 1919.

Average salaries White Earth Indian School, Minn.

[Payable from "Interest on Chippewas in Minnesota fund."]

Superintendent.....	\$2,000
Engineer.....	800
Night watchman.....	500
Pine Point Day School, capacity 53:	
Teacher.....	600
Housekeeper.....	300
Round Lake Day School, capacity 30:	
Teacher.....	720
Housekeeper.....	300
Twin Lake Day School, capacity 30:	
Teacher.....	720
Housekeeper.....	300
Field service:	
Physician.....	1,400
Do.....	1,000
Total.....	8,640

White Earth Agency, Minn.

Position.	Rate of pay.	Total.	Payable from—
White:			
1 chief clerk.....	\$1,300	\$1,300	
1 financial clerk.....	1,200	1,200	
1 issue clerk.....	1,200	1,200	
1 assistant clerk.....	900	900	
1 clerk.....	840	840	
1 clerk (abstractor).....	900	900	
1 assistant clerk.....	840	840	
2 physicians.....	1,000	2,000	
1 physician (contract).....	500	500	
1 laborer.....	600	600	
Total.....		10,280	Chippewa in Minnesota fund, 1920.
Hospital:			
1 nurse (white).....	720	720	
1 matron (white).....	540	540	
1 cook (Indian).....	540	540	
1 laundress (Indian).....	420	420	
1 assistant (Indian).....	540	540	
Do.....	300	300	
1 laborer (Indian).....	480	480	
Total.....		3,540	Chippewa in Minnesota fund, 1920.
Indian:			
1 assistant clerk.....	1,000	1,000	
1 matron.....	600	600	
1 cook.....	480	480	
1 laborer.....	600	600	
Do.....	480	480	
Total.....		3,160	Chippewa in Minnesota fund, 1920.
Miscellaneous:			
1 chief of police, per month.....	40	480	
Do.....	30	360	
Do.....	40	480	
6 privates, per month.....	20	1,440	
Total.....		2,760	Pay of Indian police, 1920.
1 forest guard.....	900	900	
3 forest guards 2 months, per month.....	50	300	Industrial work and care of timber, 1920. (Forestry.)
Total.....		1,200	
1 farmer.....	900	900	Industrial work and care of timber, 1920 (A. & S.).

(Below is a résumé of the data furnished in Mr. Meritt's statement:)

	Number of employees.	Salaries.
Superintendent.....	4	\$7,100
Principal.....	4	3,800
Teacher.....	13	8,700
Disciplinarian.....	2	1,320
Matron.....	6	3,360
Matron, assistant.....	2	780
Seamstress.....	4	1,760
Laundress.....	4	1,830
Cook.....	9	4,380
Assistant.....	3	1,140
Housekeeper.....	6	1,800
Caretaker.....	1	600
Nurse.....	5	3,420
Physician.....	13	14,260
Clerk, assistant timber, etc.....	22	20,650
Stenographer (6 months).....	1	450
Laborer (one, 5 months; one, 6 months).....	21	10,050
Farmer.....	4	3,600
Chief of police.....	6	2,700
Police, privates.....	22	6,300
Judges.....	4	336
Interpreter.....	2	600
Forest guard (three, 3 months; three, 2 months).....	8	2,040
Scaler.....	24	13,230
Ranger.....	1	1,200
Deputy superintendent of forests.....	1	1,400
Logging foreman.....	1	1,200
Scale inspector.....	1	1,200
Sawyer and marine engineer.....	1	900
Engineer.....	4	3,440
Engineer, assistant.....	1	480
Blacksmith.....	3	2,220
Carpenter.....	1	600
General mechanic.....	1	720
Night watchman.....	2	800
	1207	128,366

¹ 9 part time.

Mr. MERITT. It is very easy, Mr. Chairman, to make a general statement about the large number of Indian employees, but when we have the concrete facts before us in a statement that can not be refuted, it is a very good answer to make to those extravagant statements of Mr. Ballinger.

The CHAIRMAN. Of course, the chairman had a broad view in mind when he suggested a reduction of 50 per cent of the employees, and it was not with any idea that where there was one superintendent he should be cut in two to force consolidation. The plan may be impracticable, but it at least appears sound in my judgment.

Mr. HASTINGS. What do you think of the practicability of having one head agent for all these bands of Chippewas and then some sub-agents to look after the separate bands under the general jurisdiction of the head agent there?

Mr. MERITT. We are working the administrative features out along that line so far as it is practicable. We have now one superintendent who has supervision not only of the Fond du Lac Indians, but of the Nett Lake Indians and the Vermillion Lake Indians. At Leech Lake agency we have a superintendent who is looking after the affairs not only of the Leech Lake Indians, but also of the Cass Lake Indians.

The CHAIRMAN. If it will not interfere with the sequence of your remarks, since you have mentioned Fond du Lac, I would like to hear about that school for which we are appropriating and which is apparently out of existence.

Mr. MERITT. I will be glad to do that a little bit later. Now, as to the alleged unnecessary employees among the Chippewa Indians. We have frequently heard that statement made, and on January 16, 1920, the Indian Office wrote each Chippewa superintendent an identical letter, which read as follows:

JANUARY 16, 1920.

There is transmitted herewith a copy of all positions authorized under your jurisdiction, taken from your salary list as it stands to-day. You should immediately go over this list and recommend for abolishment any and all positions which are not absolutely essential, and justify fully by position each of those which you recommend be retained. This information is of especial importance and your report must be in the office within 10 days from the date of this letters.

Very truly, yours,

E. B. MERITT,
Assistant Commissioner.

That letter was sent to each of the superintendents in the Chippewa country, and the reports from the superintendents showed that there were very few unnecessary employees.

The CHAIRMAN. And that all of them were working for too little money?

Mr. MERITT. Yes, sir. The employees in the Indian Service are working for salaries that are probably 50 per cent less than are being paid skilled laborers in the commercial world at this time.

Mr. HASTINGS. I think that is a very conservative statement.

Mr. MERITT. Mr. Chairman, while we hear a great deal of criticism about the Indian Service employees and what little good they are doing the Indians and while I hold no special brief for the Indian Service employees and have no desire to perpetuate the Indian Bureau a single day longer than is absolutely necessary. I think that if we look around this room to-day and see these educated Indians here, who are quite able to represent themselves before this committee, and remember the fact that only 50 years ago the Indians were roaming over the western prairies without any permanent home, I think that that evidence is within itself a tribute not only to the wisdom of Congress regarding Indian Affairs but it is also evidence that the Indian Bureau has been doing a good work to bring these Indians, within a period of 50 years, to the standard of civilization which they occupy to-day.

The CHAIRMAN. The time for recess having arrived we will recess until to-morrow morning at 10 o'clock.

The committee thereupon adjourned.

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Wednesday, March 10, 1920.

The committee this day met, Mr. Homer P. Snyder (chairman) presiding.

The CHAIRMAN. Gentlemen, a quorum of the committee being present, we will resume the hearing at this time, with Mr. Meritt as the witness. Before we begin, however, I desire to say it has come to my attention since last evening that there is a delegation here represented by an attorney who advises me that there has been an action started in the courts of Minnesota to determine who is the legal

representative of the Chippewa Council. It would seem that both Mr. Meritt and Mr. Ballinger must have been cognizant that such action was pending, and the chairman desires to state he was at least surprised that neither of these gentlemen had mentioned the matter. Before we proceed this morning I think we should consider the gravity of that situation, for, as I see it, if there has been such action started and it is of the proportions explained to me, there would be little use of proceeding further with this hearing until it was determined definitely who is their authorized legal representative capable of making an agreement in their behalf. I should like to hear from Mr. Meritt as to whether he concurs with my view or not.

MR. MERITT. Mr. Chairman, I am advised that there has been in the courts of Minnesota legal action regarding the subject matter to which you refer. That litigation will in no way interfere with the proposed legislation to be enacted by Congress and should not delay the consideration of this bill by Congress. I knew that the attorney to whom you refer was in Washington, and it was my intention to ask this committee that he might be heard later after others had been heard on this bill. There is no disposition to deprive him of the full opportunity to be heard by this committee. The attorney in question is Mr. McDonald, and I had his name on the list here to be heard by the committee later in the day.

THE CHAIRMAN. It occurred to me that the committee should be advised fully as to how far that litigation has gone, and I think it would be well for us to hear from the attorney and let him tell us what steps have been taken and what attitude he believes we would be in in case we attempted to go on with this legislation before that matter is cleared up in the courts. If the members of the subcommittee who are here agree with me, we will listen to the gentleman now, if he will just give his name and address.

STATEMENT OF MR. E. McDONALD.

MR. McDONALD. My name is E. McDonald. I am an attorney and counsellor, practicing in Bimidji, Minn. This suit was commenced, as I recall it, in August, 1919.

THE CHAIRMAN. Did you start the suit?

MR. McDONALD. I did not. The title of the case is John G. Morrison, jr., et al., against the General Council of the Chippewa Indians of Minnesota (Inc.), a body corporate, Benjamin Caswell, et al. The action was brought in the district court of Becker County, the county seat of which is Detroit. Steps were taken to remove it to Itasca County, Minn., and it was removed. A demurrer was interposed to this complaint by myself. Shortly before the time for answering had expired I was retained by the representatives of the General Council of the Chippewa Indians of Minnesota (Inc.).

THE CHAIRMAN. Let me ask you right there: What per cent of the Chippewas of Minnesota do you represent?

MR. McDONALD. About 80 or 85 per cent, if I may be permitted to include the Chippewas of the Red Lake Agency.

THE CHAIRMAN. Then, do I understand you to claim that the present counsel here recognized by the bureau has been chosen by perhaps 15 per cent of the Chippewa Indians of Minnesota?

Mr. McDONALD. That is substantially as I understand it.

Mr. HERNANDEZ. I understand that you represent these people in the suit to which you refer in the State of Minnesota, and not here.

The CHAIRMAN. Have you any authorization, any paper, you can leave with the committee showing that you are the regularly constituted representative of these people, with authority to represent them before this committee?

Mr. McDONALD. I appear in that litigation and my name appears attached to the answer. I am here to appear before your committee under a resolution passed by the council, or meeting representing the General Council of the Chippewa Indians of Minnesota (Inc.), held the other day at Cass Lake, at which delegates from all the reservations, I think, but two—Grand Portage and Nett Lake—

The CHAIRMAN. Have you a copy of that resolution?

Mr. McDONALD. Yes, sir.

The CHAIRMAN. Will you file that, please?

Mr. McDONALD. But my retainers relate to specific matters. I am the general attorney of the Chippewa Indians.

The CHAIRMAN. About when in the ordinary course of legal events will you get a decision from the courts in this matter?

Mr. McDONALD. I will make this very brief. A demurrer was interposed to that complaint and partially argued. Owing to the fact that Judge McManahan was of the opinion that the matters involved should be passed upon as soon as possible by the Supreme Court our said demurrer was overruled pursuant to an understanding between Mr. Ballinger, Mr. Rogers, and myself. Steps were taken to perfect an appeal to the Supreme Court, but owing to the fact that Mr. Coffey, one of the principal defendants, was called to Kansas City and because of some other delay in the matter of securing of necessary bonds, that appeal could not be taken.

We then interposed an answer setting up all the facts relating to the existence of the two councils, the council represented by Mr. Ballinger, which is a voluntary association organized in 1913, and the General Council of the Chippewa Indians of Minnesota (Inc.), that I represent here and represent in the litigation. That answer set up all the facts not set up in the complaint. The complaint sets up our incorporation and sets up our purposes, which is substantially correct, although it does not include the entire purpose of our organization. Now, our answer was served on the 20th day of December; the plaintiffs had 20 days in which to reply. No reply has been received. So far as the pleadings in this case are concerned the allegations in our answer with respect to the status of these two associations, one a voluntary and the other a legally incorporated association, stand admitted. Their time for replying to our answer expired January 9. The district court of Itasca County, in which this case is pending, opened a term of court the day your committee met, March 8. We had expected that the plaintiff in this case, Mr. Morrison, and his counsel would have noticed that this case was set trial at that term of court. It was not so noticed. The next term of court in Itasca County is about six months from now.

The CHAIRMAN. Well, now, just a moment. What is there in this proposed legislation that you people are opposed to?

Mr. McDONALD. I hope that I will not be called upon to go into that until I am given an opportunity to go into the matter somewhat

at length, but directly we are opposed to any portion of this legislation which recognizes the voluntary association as being in control of the Indian affairs of Minnesota. Wherever that appears in this legislation we are opposed to it, and for this reason: In this complaint the voluntary association claim that they are recognized by acts of Congress as the organization that is entitled to come here to-day and represent all of the Indians of Minnesota. They plead a portion of your last appropriation act as evidence that they are the only organization that are entitled to be heard with reference to the administration of the Indian affairs in Minnesota; and when I read it I will call your attention to that portion of the complaint in which they set up that their organization is recognized by an act of Congress.

The CHAIRMAN. Are you in position at this time, while here in the city, and while the council is here, to sit down with these men and see if you can correlate your affairs in such a way that you can all come to an agreement, so that legislation at least similar to that which we are contemplating can be brought about that would be satisfactory to all the parties concerned.

Mr. McDONALD. Mr. Chairman, I am of the opinion that there is no hope for any cooperation with those people who are dominating the General Council of the Chippewa Indians of Minnesota, with those people that may be designated first as the full-blooded Indians or those that are so classed, and the Red Lake Indians, and the reason is this: We are firmly of the opinion that those men who so far have been represented to your committee as representing all of the Indians of Minnesota ought not to participate in the administration of the Indian affairs of Minnesota, and much less ought they be permitted to dominate. As this bill provides that they shall dominate the Indian affairs of this State, could I but call your attention to the section there which provides—I don't know whether it is in this reprint or not—but the bill that you gentlemen were first asked to consider provided that the General Council of the Chippewa Indians of Minnesota shall convey to the State of Minnesota your Indian school lands, an assumption and presumption that was violent and absolutely wrong. There are many other things in connection with this proposed legislation when you come to pass upon it that I think will be called to your attention that will demonstrate the impossibility of this bill here. There are many things which lead the Indians to mistrust, which lead them to question practically everything that those who are now active in the so-called General Council of the Chippewa Indians of Minnesota are undertaking.

The CHAIRMAN. I will ask you again in a little different form: Suppose this litigation should come to a conclusion and a decision given in favor of the plaintiffs, what effect would that have upon any agreement that had been made at this time between the present council, the bureau, and this committee?

Mr. McDONALD. The effect of that decision would simply be that we would have to change our name. That is the real bone of contention. It is claimed, and we argued before Judge McManahan, that a voluntary association have the right to assume a name and that a corporation have not the right to take on that name, so that it would not defeat our organization. Our organization goes on just the same. We may, if Judge McManahan's or the Supreme Court's decision is

adverse to our contention, be obliged to change our name so as to distinguish it from the council presided over by Mr. Morrison.

The CHAIRMAN. That would have no effect upon an agreement that had previously been made by the council which is now recognized as being regular?

Mr. McDONALD. It would have, for this reason: That the Indian Bureau had no right to recognize the general council when they knew that there had been general-council meetings with this other organization and that had elected their president, their officers, and their delegates, and all that. The Indian Bureau had been so advised. We feel that that recognition is not binding upon us and that it never ought to have been made, and that the fair thing would have been to recognize the existence of—

The CHAIRMAN. What part of the 85 per cent of the Chippewas you claim to represent participated in the election or selection of officers in the present recognized council?

Mr. McDONALD. I don't think any of ours did. Ours was an entirely separate meeting held elsewhere.

The CHAIRMAN. At the same time?

Mr. McDONALD. That goes back to 1918, and I would be glad to go into the history of that.

The CHAIRMAN. You are making a very strong statement here when you maintain that this present recognized council was selected by only 15 per cent of the Chippewas, and that no part of the 85 per cent that you represent took part in that selection.

Mr. McDONALD. Well, now, it is all set up in my answer, and we gave the names of the delegates and their addresses, as I recollect it, that participated in our general council, and we claim that with the exception of the White Earth Reservation, and one other reservation, they did not have representation at all.

The CHAIRMAN. Well, now, are you prepared to state that you represent 85 per cent of the Chippewas of Minnesota?

Mr. McDONALD. I would not want to say exactly—

The CHAIRMAN. Or thereabouts?

Mr. McDONALD. I will put it this way, that the gentlemen who are opposed to the general council represent more than 60 per cent.

The CHAIRMAN. And that 60 per cent are opposed to continuing with this hearing until it is definitely determined who are the legal representatives of the Chippewas?

Mr. McDONALD. I would not want to put it in that way.

The CHAIRMAN. I want the facts. I want to know whether you oppose this proposed legislation or whether you favor it.

Mr. McDONALD. Well, with reference to that part of it, if the chairman pleases, we had hoped to be able to lay many facts before this committee that either now or at some future time would be of assistance to it in relation to legislation.

The CHAIRMAN. Yes; but we have embarked here upon a serious investigation with a broad viewpoint, with, first, the idea of having the Chippewas get together and come to us with something that we would be able to coordinate in legislation. Now, we have here on the third day of the investigation an element claiming to represent 60 per cent of the Chippewas of Minnesota who can not say whether they are in favor of or opposed to the proposition.

Mr. McDONALD. We are absolutely opposed to this proposition.

The CHAIRMAN. That is what I wanted, a definite statement as to your position.

Mr. McDONALD. May I add one word further? Unless your committee desires to hear our presentation of some facts which are pertinent to the matter which is before your committee and the matters generally relating to it, then I really think that the hearing, so far as these proposed bills are concerned, should be ended right here.

The CHAIRMAN. Then, just one further question. If we go on with the hearing, are you prepared to come to us with testimony in an official capacity so that whatever decision the committee comes to it will know that it has either your consent or your objection, as representing at least 60 per cent of the Chippewa Indians of Minnesota?

Mr. McDONALD. As I understand it, gentlemen of the committee, we are here before this committee to-day at your invitation to assist you if possible in determining what should be done; and coming here at your invitation and laying such matters before you as we think will assist you, we of course submit to your committee's action. That would be the natural thing for us to do. In other words, we come here and submit our proposition and feel that we are leaving the matter in the hands of the committee.

The CHAIRMAN. I fail to discover whether you are opposed to everything we are doing here or not, but we are perfectly willing to listen to you later on in the hearing, when you will probably tell us whether you are opposed to it or not.

Mr. McDONALD. We are absolutely opposed to this legislation, and not only to the original legislation but to the so-called compromise bill.

The CHAIRMAN. I understood you to say that you thought there was no hope of your being able to sit down among yourselves and coming to a consolidated agreement that you all together could submit to this committee.

Mr. McDONALD. The matters involved are such that they are diametrically opposed.

The CHAIRMAN. That, in my mind, resolves itself into this, that we must go ahead and legislate here without the assent of the people whom you claim to represent.

Mr. McDONALD. May I suggest that this matter is of such importance that it should not be disposed of hastily; and I offer it as my opinion that either this committee or a subcommittee should first visit Minnesota before it is disposed of and familiarize itself with the situation there by coming in direct contact with it. Now, there will be a meeting of the incorporated council, I think, some time in July, and the meeting of the other council is fixed for some time early in July, and the representatives of this committee can appear at the meetings of both councils, and they could thus learn at first hand how many are in the voluntary association, who they are, what they represent, and what their ideas are; and they could also obtain similar information concerning the other association, if you please.

Mr. RHODES. If you feel that your faction can amass so many more of the Chippewas, why did you not get them together at the election and control the council itself? Why did you feel that you had to go off into a separate organization when you represent such a

majority of those who have the right to elect? Why did you not go ahead and control the machine?

Mr. McDONALD. I am prepared to go into that in detail.

Mr. RHODES. It looks to me as if it could have been a very easy matter at the time.

Mr. McDONALD. I will ask permission of the chairman to do that right now.

The CHAIRMAN. You have the floor.

Mr. RHODES. Do you have any connection with the group of Chippewas that came here about a month ago and had a hearing?

Mr. McDONALD. I have no connection with them at all.

Mr. RHODES. Which faction did they represent, yours or the other?

Mr. McDONALD. If you have reference to Mr. John Parker and Mr. Lovegans I can state who they are, and they are here now representing the opposition to this legislation and the opposition to what I will term the "Morrison Council."

Mr. RHODES. They said at that time that they wanted to advance some preliminary propositions and that they would be prepared later to make some arguments, and we understood that this whole thing would be thrashed out at that time.

Mr. McDONALD. That is what I understood.

Mr. RHODES. Let me ask you another question that must imply some misgivings as to the weight of your argument, because you must assume that this committee is fair-minded, open-minded, and wants to do justice. Do you feel that it is the proper thing for you to refrain from putting the whole matter before us—if that is your purpose—unless you feel that anything this committee does, or any legislation that is passed, will be barred from the legal standpoint and that you want to keep yourself in a position to attack the legality of any legislation that is passed? Is that your view?

Mr. McDONALD. No.

Mr. RHODES. I do not see why you do not want to present your full case here.

Mr. McDONALD. We intend to do so. I did not want to convey in answer to the chairman's question that I did not want to go on. The chairman asked me the pointed question if I thought the matter ought to be suspended and I stated that I thought so, but we are prepared to go on, and we think we can satisfy this committee that nothing in the shape of legislation should be enacted that will not be fair to all the Indians of Minnesota.

The CHAIRMAN. Then, if you are prepared to give testimony as a witness we can now go ahead with the hearing and listen to you when the proper time comes.

Mr. HAYDEN. Why did you think the committee investigation ought to be suspended?

Mr. McDONALD. Well, the committee would be in much better shape after this decision is rendered in the district court. That is the only reason I know of for that. Then legislation can be shaped accordingly. There are two organizations, and in your legislation you may want to recognize that fact the same as we hope the Bureau of Indian Affairs may recognize that fact. There ought to be some bureau, or some man somewhere to whom such questions can be presented and who would decide as to whether or not the so-called

"Morrison Council" represents all of the Indians or whether or not there are two associations, or whether or not either of them represent the Indians, or perhaps the better way would be to have somebody that could say there were two organizations representing two distinct factions.

Mr. HAYDEN. Do you not think it would be a pretty good idea before you started upon this independent course to try out the regular procedure of sending your credentials to the Indian Bureau and asking for recognition. You surely are acquainted with the Indian Bureau and know what their general functions are. You assume here to be somewhat ignorant of what their duties are.

Mr. McDONALD. I would not want to put it that I am ignorant of it, but I am not fully advised of what the practice is in the Indian Bureau.

The CHAIRMAN. Perhaps Mr. Meritt can give us some inside facts and I will ask him to make a brief statement. If his statement does not agree with your ideas you of course have permission to ask to be heard.

Mr. MERITT. Mr. Chairman, this controversy this morning illustrates the difficulty of administering Indian affairs. There usually are two factions on every Indian reservation. The Chippewa country is no exception to that rule. These factions have complained of each other for a good many years. The Indian Bureau has had considerable trouble in getting these factions together. The two different factions here have held meetings at different places in the Chippewa country. Inasmuch as the bureau was charged with the responsibility of administering the Chippewa affairs we tried to get these two factions together in one convention, and it was agreed by the representatives of both factions while here in Washington that on June 17, 1919, an election would be held for delegates to attend the general council to be called at Cass Lake, Minn., and that the general council should be held at Cass Lake on July 8 of last year. There was a meeting held at that place on that date. What is known as the mixed-blood faction among the Chippewas were in control of the meeting, and the full-bloods were out-voted at that meeting.

Mr. HASTINGS. Was that meeting well advertised in advance?

Mr. MERITT. It was well advertised. We wrote letters to the various superintendents and the Indians were advised in person, and I think it will be conceded that it was generally known in the Chippewa country that that meeting was to be held. As a result of that meeting the Indian Bureau recognized what is known as the "Morrison faction" among the Chippewas, and the Commissioner of Indian Affairs under date of August 28, 1919, wrote Mr. John G. Morrison, jr., Red Lake, Minn., this letter: "Dear Mr. Morrison: I am in receipt of a copy of the minutes of the meeting of the general council of Chippewa Indians of Minnesota, held at Cass Lake, Minn., July 8, 1919; also reports from Supt. Walter F. Dickens and Supervisor L. F. Michael who attended this council at my request. I have given this matter very careful consideration and hereby recognize your election as president of the council; Paul H. Beaulieu as secretary thereof, and the organization effected thereby, under the constitution and by-laws of the Chippewa Indians of Minnesota. I exceedingly regret however, to note from the record that the factional differences among the Chippewa Indians were not adjusted at this council and a com-

promise effected, so that this election would be an expression of the entire Chippewa Tribe. Sincerely yours, Cato Sells, Commissioner."

Mr. HERNANDEZ. Are the different agencies of the tribe represented in this council?

Mr. MERITT. Yes, sir.

Mr. HERNANDEZ. Representatives of each and every one of the tribes are in this council?

Mr. MERRITT. Yes, sir; except Red Lake. Now, on June 2, 1919, the Commissioner of Indian Affairs sent a telegram to the different superintendents in the Chippewa country. This telegram reads as follows:

After conference here with representatives all factions Chippewa Indians, it has been decided to adjourn the elections of delegates of both factions, proposed to be held to-morrow, June 3, until Tuesday, June 17, 10.30 a. m. when delegates will be elected to the general council to be held at Cass Lake Tuesday, July 8, 10 a. m. Said delegates shall be elected on the basis of one delegate for each 100 Indians or fraction thereof on each reservation and ceded reservations. You will notify immediately the Indians of your reservation of this action and direct them to be governed accordingly. The adjourned place of election on the White Earth Reservation shall be held in the pavilion at Pinehurst. You are also directed to be present on the day of election and see that it is conducted fairly and honestly.

There are other telegrams of the same import. You will remember, Mr. Chairman, in my opening statement I was asked if we recognized the general council of the Chippewa Indians represented at this meeting, and I stated that we had recognized the General Chippewa Council, but we did not recognize that they were the controlling factors in administering the affairs among the Chippewa Indians.

Mr. HAYDEN. As I understand it, you have recognized one of these councils as the official head of the Chippewa Indians in Minnesota; is that true?

Mr. MERITT. Yes, sir.

Mr. HAYDEN. Now, how much trouble would it be for you to enter into or negotiate an agreement with this council and then submit, not the election of another council to the Chippewa Indians, but the ratification of that agreement?

Mr. MERITT. I think that would be an unwise way to deal with the Chippewa situation, from my experience with Indian affairs in the Chippewa country.

Mr. HAYDEN. Why so?

Mr. MERITT. Because there is so much prejudice and factional feeling among the Chippewa Indians that a large number of the Chippewa Indians would resent the action of the Indian Bureau in negotiating an agreement with the general council of the Chippewa Indians.

Mr. ELSTON. That question of the recognition of the council by the bureau, as I understand you, has already been settled by the bureau, has it not?

Mr. MERITT. We have recognized them as the general council, but we have not gone so far as to make an agreement with them, nor would we do that under the present conditions.

The CHAIRMAN. But you have continued to do business with the other Indians up there in addition to the general council that you recognized?

Mr. MERITT. Yes, sir.

Mr. ELSTON. If you negotiated this agreement with this council, then the question would be presented to the Chippewas, not of ratifying the council, but of the action by the council?

Mr. MERITT. I would see no objection to this action being taken. Have the Indian Bureau and the general council of the Chippewa Indians and the other faction of the Chippewa Indians get together and endeavor to reach an agreement on legislation and come before the committee and thrash this matter out. Congress, after hearing all sides, could pass such legislation as it deemed wise to meet the conditions in the Chippewa country, and then have that legislation not become effective until approved by a majority of the adult male and female members of the Chippewa Tribe of Indians in Minnesota.

Mr. ELSTON. Now, the only difference between that and the proposition I have presented, as I understand it, is this, that in your negotiations as you proposed you will undertake to deal with both factions, and the proposition I made was to deal with that faction which the department has already recognized. Of course, the committee has no interest whatever in either of these factions and only wants to do that which is best for the entire tribe, as the bureau wants.

Mr. MERITT. That is exactly our position.

Mr. ELSTON. But from statements made before the committee it appears to me that there is not much possibility of getting these two factions together in the writing of an agreement, but if you could negotiate an agreement with one faction or the other, whichever you recognize, having in view all the time that you had votes to ratify the agreement, I take it that the bureau would look after the interests of those who were not represented, not the council, and that being the case, would try to negotiate an agreement which would be acceptable to all factions.

Mr. MERITT. I think it would be very unwise for the Indian Bureau to attempt at this time to negotiate an agreement with the general council of the Chippewa Indians.

Mr. ELSTON. As I understand you, you think that no agreement should be undertaken unless it is undertaken with all factions?

Mr. MERITT. I would not even attempt to negotiate with all factions under present conditions. I would attempt to work out with all factions the necessary legislation and permit all factions to be heard, and then, if it is the wish of Congress, to have a majority of the male and female members of the Chippewa tribe approve that legislation before becoming effective.

Mr. ELSTON. That is what I understand your position to be.

The CHAIRMAN. I think that is the only thing that can be done. As chairman I will say that I am disappointed, because I expected that this legislation proposed here would be based upon a consolidation of the views of all of the parties, and that was my understanding when you left here six weeks ago, that at the hearing called on the 8th of March, after hearing all the parties, after hearing all the interests, you would get together and come here with an agreement. Apparently negotiations have been carried on only with the recognized council and the bureau.

Mr. MERITT. Not at all, Mr. Chairman. We have carried on negotiations with all of the factions here in Washington.

The CHAIRMAN. Have you dealt with anybody who claimed to represent the people that the gentleman whom we have been hearing this morning claims to represent?

Mr. MERITT. Yes, sir, we have had a conference with them.

The CHAIRMAN. Did you find them to be in the same frame of mind with regard to an agreement that the gentleman conveyed to us this morning?

Mr. MERITT. Unfortunately a number of those Indians were not in a position to state what they wanted. They did not know exactly what they wanted. Now, the principal objection that has been pointed out this morning to this bill is found in section 3, where the general council attempted to get legislation so that they would have authority to convey certain land. If you will note the draft that we submitted, we struck out that provision and placed the authority in the Secretary of the Interior, so we have corrected in this bill the chief objection raised by the attorney, Mr. McDonald.

The CHAIRMAN. Well, now, with that explanation, and one other, so far as the chairman is concerned, we can go ahead with the hearing. I want you to explain what effect this suit that has been started, in case it should be decided in favor of the plaintiffs, would have upon any legislation that we may have adopted in the meantime.

Mr. MERITT. I think the litigation would not have any effect upon the legislation, and the legislation you propose would also not have any effect on who should at any future time control the general council. That is in the hands of the Chippewa Indians, and if one faction wins this year it would not prevent another faction winning next year. This legislation would not have any bearing upon that question.

The CHAIRMAN. From your knowledge of the action that has been started, is there anything in it that would vitiate any action now taken by the present council? Would it have the effect of defeating any action that we took here now with the council as a legal entity to-day?

Mr. MERITT. I think not.

Mr. HERNANDEZ. It seems to me like the disputed point in this controversy between the regular council as it was elected and this insurgent council is that they are afraid if this legislation is enacted this council that is now recognized by the bureau will have the selection of one of these commissioners.

Mr. McDONALD. The matter of that election that Mr. Meritt refers to is set up in this complaint, and we answer these allegations relating to that particular election; and our allegations in the original answer, which I have here, and these allegations, stand admitted so far as the pleadings are concerned. That whole subject is involved in this action.

The CHAIRMAN. Well, now, with Mr. Meritt's brief statement that the court action would have no effect upon any action we take here, we will, with that understanding, proceed with the hearing if it is agreeable to the other members of the committee.

Mr. CARTER. I think we might continue, Mr. Chairman. I have not heard enough of the hearing.

Mr. ELSTON. I think we might continue, Mr. Chairman.

Mr. RHODES. I recall that you said, Mr. Meritt, that there was some merit in the contention of these insurgent Indians as against the regulars. I understood this morning that you recognized the regular council. Now, just how far in the management of the affairs of the tribe have you recognized this regular council?

Mr. MERITT. I don't think you understood me correctly. The impression I intended to convey to the committee was that the general council was the duly authorized council among the Chippewa Indians, but that there was a large number of Indians that were not in sympathy with the general council, and that the general council was making recommendations for administrative and legislative matters that the insurgents did not approve of in all particulars.

Mr. RHODES. That is all perfectly clear, but what I was getting at primarily was this, would you not think that the failure of the department to give its unqualified support to the general council only tends to encourage both factions and to prolong the controversy?

Mr. MERITT. We recognize that there is a serious difference of opinion among the Chippewa Indians, and, representing all of the Chippewa Indians, we feel that it is our duty to hear all the Chippewa Indians, at the same time recognizing the Chippewa General Council.

Mr. RHODES. That statement is too general to accomplish any definite results. The knowledge of the bureau must be such that the bureau has a definite opinion. It would be unthinkable to conceive that after all the years of administration of the affairs of the Indians of this country that the bureau to-day is without definite knowledge as to who should prevail in a controversy of this character.

Mr. MERITT. We have that knowledge.

Mr. RHODES. Just a moment. From what I have observed, it would appear that there is a substantial controversy between these factions, and that the department has recognized a legally constituted body as both a de facto and de jure body. After all, you go on encouraging these irregulars to the extent that the result is indecision and a prolonged controversy. Now, I should like to know if you have a definite opinion which you will express to this committee as to the merits of this controversy. If there is no substantial merit on the part of these insurgents, then why not recognize the action of the so-called regular council for all purposes in handling the affairs of the tribe? As I understand the proposition the other day it was a sort of dual controversy as between the department, which you represent, and Mr. Ballinger, whom I assumed represented the regular council. This morning another gentleman appears and expresses very positive views, which resolves the question into a triangular proposition, with a good deal of doubt, so far as I have been able to see, as to who is right and who is wrong. Now, it is the intention of the department, I hope, to lend its good offices in such a way as to assist this committee in reporting legislation that will solve the trouble. Is that correct?

Mr. MERITT. That is in line with our intentions, and it is in line with our actions, as evidenced by the bill that we have taken great pains to redraft and which has been submitted to the committee for its consideration.

The CHAIRMAN. But we are up against this proposition, that while you and the representative of the general council agree upon two-thirds of that legislation we have to listen to the third element who say that they are opposed to the whole thing.

Mr. MERITT. There is a faction among the Chippewa Indians that will oppose anything that is advocated by the present general council of the Chippewa Indians.

Mr. RHODES. As a practical proposition, and as a member of the committee, disinterested and with only one object in view, and that is to accomplish substantial results in the interest of the tribe, I feel like insisting that the department take a positive position, and then as a member of the committee I should like to hear what each faction has to say and work out something tangible. I do not want to see this controversy go along in an indeterminable sort of way. I am bound to confess that I have seen indications that there might be a disposition on the part of some parties connected with this controversy to rather trifle with this committee. So far as I am concerned I do not want to be a party to encourage any such disposition. If certain members of this tribe, either of the regular or insurgent bands do not know positively what this legislation is leading to I am certain the department does. We ought to have a definite and positive defining of the issues, and then govern ourselves accordingly.

Mr. MERITT. Mr. Rhodes, that is exactly the position the department has taken. We have taken a positive position as to who constitutes the general council of the Chippewa Indians of Minnesota, and we have also taken a positive position as to what legislation should be enacted by Congress, and we have submitted that legislation here in concrete form.

Mr. RHODES. But, as a matter of fact, your failure to adhere to the regular council, or, rather, in giving your unqualified support to the regular council, would encourage these bands of insurgents, which results in prolonging the controversy.

Mr. MERITT. Not at all. We are not encouraging insurgents. That insurgency has been in the Chippewa country for years, and regardless of what action this committee or the Indian Office takes, that insurgency will still exist in the Chippewa country. It is impossible to bring them together.

Mr. RHODES. The result must be that you must reach the point of decision and make the decision, or the controversy is unending.

Mr. MERITT. We have reached the point of decision, and we have made that decision, but we can not control the Indians composing the actions in the Chippewa country. That is beyond our control and beyond the control of Congress.

Mr. RHODES. It may be beyond your authority to control this insurgent band, but, Mr. Meritt, it seems to me, with specific statutory authority, without some proof, I should be slow to accept your statement on that proposition. I thought the Indian Bureau was clothed with sufficient authority to control all factions.

Mr. MERITT. You are mistaken about that. The Indian Bureau can not control factions on the Indian reservations. There are factions on every Indian reservation in this country.

The CHAIRMAN. Have you expressed here your views fully? The chairman would like to have you express your views in as few words as possible as to the real issues between these two factions, aside from all legal technicalities.

Mr. MERITT. We have expressed, I think, very clearly the differences between the Red Lakes and the Chippewas outside of the Red Lake and what they are contending for. The principal and big difference between the Idians in the Chippewa country is the legal question

as to title to lands within the Red Lake Reservation. The General Council of the Chippewa Indians takes the position that after the Red Lake Indians have been allotted on the Red Lake Reservation the surplus lands and property belong equally to all the Chippewa Indians; whereas the Red Lake Indians take the position that the entire Red Lake Reservation belongs to the Red Lake Indians and that the Indians of the other reservations have no right whatever to that property.

The CHAIRMAN. Well, then, to that extent the insurgents, so called, are sided with the Red Lake interests.

Mr. MERITT. I have not heard them express themselves on that point and I would prefer to have them express their own position.

The CHAIRMAN. We thought we possibly might get a little better view of how the bureau looks upon this controversy. Now, I think we better go on with the hearing, unless there is something pertinent some one wishes to ask at this point.

Mr. BALLINGER. I do not like to interrupt the hearing, but you have asked questions and some of the other members of the committee have asked some questions as to the real cause of this controversy. If you will permit me for two or three minutes, I want to state the real cause of the controversy between the gentlemen represented by Mr. McDonald and the members of the tribe represented by the general council.

The CHAIRMAN. Mr. Ballinger, that would be largely the view of one side of the controversy.

Mr. BALLINGER. Yes.

The CHAIRMAN. I asked the question of Mr. Meritt because he would have a neutral view of the situation, and I think we better wait for that.

Mr. MERITT. Mr. Chairman and gentlemen of the committee, on yesterday, at the conclusion of the very able and careful statement of Mr. Ballinger for the General Council of the Chippewa Indians, I followed with a short statement, when the time for adjournment was reached. In my statement yesterday I pointed out the very great frauds that had been perpetuated on the White Earth Reservation from legislation enacted by Congress. I had also pointed out that Mr. Ballinger was mistaken in his contention that the Indian Bureau was responsible for the legislation enacted in 1916, which set aside a forest reserve on the Red Lake Reservation. I also pointed out that the forest reserve created in the Chippewa country by the act of 1908 was not the result of legislation requested by the Indian Bureau. Mr. Ballinger laid great stress upon the fact that the agreement of 1902 and the resulting act of 1904 relating to the Red Lake Reservation was initiated by the Indian Bureau, and that Congress and the other Chippewa Indians were not responsible for that legislation.

I want to bring to the attention of the committee this morning some information that has not been brought out heretofore, which shows clearly that the Indian Bureau did not initiate the agreement with the Red Lake Indians resulting in the act of 1904 where Congress specifically recognized the rights of the Red Lake Indians to the entire Red Lake Reservation. This matter was first initiated by the citizens of Deep River Falls, Minn., and those citizens sent to Washington their mayor, Mr. Fred H. Kratka, who addressed a letter to the Secretary of the Interior under date of January 30, 1902, asking that a part

of the Red Lake Reservation be opened for homestead settlements. For the information of the committee I will ask that this letter be incorporated in the record.

The CHAIRMAN. It is so ordered.

Mr. MERITT. The letter is as follows:

WASHINGTON, D. C., January 30, 1902.

Hon. E. A. HITCHCOCK,

Secretary of the Interior.

DEAR SIR: The undersigned would respectfully represent that he has been authorized by the Council of Thief River Falls, Minn., to present this petition; that the western portion of the diminished Red Lake Indian Reservation lying in the vicinity of Thief River Falls, including all that portion west of the westerly line of Beltrami County, is composed entirely of agricultural and grass lands, containing in all about 11 townships; and that there is no pine timber upon any of said land; that said tract of land is occupied only by a few small bands of Indians, roaming about from place to place; that the opening of the lands to actual settlers, placing them in the hands of thrifty husbandmen, would be conducive to the best interests of the whites and Indians alike; and he therefore respectfully suggests that you appoint an Indian inspector to negotiate with the Indians upon the diminished Red Lake Indian Reservation, with the understanding that the moneys derived from the sale of same be devoted exclusively to the benefit of said Red Lake Indians, or the cession of all lands west of the westerly line of Beltrami County, to be subject to entry under the homestead laws of the United States: *Provided*, That the settler pay a price per acre not exceeding the price that the Government pays the Indians therefor; and respectfully suggests that the authority to do so is found upon page 1077, No. 31, Statutes at Large of the United States. He further represents that there being no pine upon these lands, the opening of these lands is entirely separate and disconnected from any question involving the opening or other disposition of lands in Minnesota upon which there is standing pine timber.

Very respectfully, yours,

F. H. KRATKA.

Mr. MERITT. Accompanying that letter was a statement from Senators and Representatives then in Congress from the State of Minnesota urging that the request of Mr. Pratgar be given consideration. That statement, signed by the Senators and Representatives from the State of Minnesota, reads as follows:

We, the undersigned Members of the Minnesota delegation in Congress, beg leave to suggest that we are well acquainted with Mr. F. H. Kratka, who is Mayor of the city of Thief River Falls, in the State of Minnesota; that we are advised, of our own knowledge, that he represents not only the sentiments of the city of Thief River Falls but of the people generally in that vicinity; and most heartily indorse and recommend his request to have the lands upon the diminished Red Lake Indian Reservation west of the westerly line of Beltrami County thrown open to settlement under the homestead laws of the United States.

Very respectfully, yours,

KNUTE NELSON.
MOSES E. CLAPP.
PAGE MORRIS.
FRANK M. EDDY.
L. FLETCHER.
JOEL P. HEATWOLE.
J. A. TAWNEY.
F. S. TEVENS.
J. F. McCLEARY.

Mr. MERITT. This paper is of very great importance in this controversy because it shows conclusively that Mr. Ballinger was mistaken in his statement to the committee that the Indian Bureau initiated this agreement and this legislation; and I have already pointed out that Mr. Ballinger was mistaken also in his statement to this committee that the Indian Bureau was responsible for the

legislation contained in the Indian appropriation act of 1916, wherein Congress recognized the rights of the Red Lake Indians to the property on the Red Lake Reservation and established a forest reserve.

Mr. DALLINGER. To whom was that letter addressed?

Mr. MERITT. It was addressed to the Secretary of the Interior, or, rather, it accompanied a letter addressed to the Secretary of the Interior.

Mr. DALLINGER. Do I understand that as a result of that letter the Secretary of the Interior, with the knowledge or at the suggestion of the Indian Bureau, recommended legislation to Congress?

Mr. MERITT. As the result of this petition and this request of the Senators and Representatives of the State of Minnesota the Interior Department sent Inspector James McLaughlin to the Red Lake Reservation and negotiated an agreement with the Red Lake Indians, which was confirmed by Congress by the act of 1904, which I have placed in the record.

In order that the committee might have the letter of instructions to Maj. McLaughlin before it I will read it for the information of the committee. This letter is headed "Department of the Interior, Office of Commissioner of Indian Affairs," and is dated "Washington, February 12, 1902." You will note here that the letter of Mr. Kratka is dated January 30, 1902, and the letter that I am going to read is dated February 12, 1902, two weeks after the receipt of the letter:

Land.
9162-1902

FEBRUARY 12, 1902.

JAMES McLAUGHLIN, Esq.,
United States Indian Inspector.

SIR: You are advised that the Secretary of the Interior on the 10th instant designated you to negotiate with the Red Lake and Pembina bands of Chippewa Indians of Minnesota for the cession of some 11 townships of land in the western portion of their reservation, under the provisions of the act of Congress of March 3, 1901 (31 Stats., 1077). The section of the act referred to provides as follows:

"That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to negotiate, through any United States Indian inspector, agreements with any Indians for the cession to the United States of portions of their respective reservations or surplus unallotted lands, any agreements thus negotiated to be subject to subsequent ratification by Congress."

The Secretary of the Interior has also directed this office to prepare proper instructions for your guidance in conducting said negotiations.

In obedience to this direction the following instructions are given you:

The diminished Red Lake Reservation as it now exists was created by agreement with the Indians under the provisions of the act of Congress of January 14, 1889 (25 Stats., 642). It contains about 800,000 acres. It is proposed for you to negotiate with said Indians for the cession and relinquishment of some 11 townships of land comprising the western portion of the reservation. The exact area and description of these lands can not now be stated. The negotiations with the Indians will determine the boundaries of the lands to be ceded; after the boundaries are known the area can be ascertained. The tract ceded, however, should lie in compact form and should comprise the western portion of the reservation.

The negotiations should be conducted, in the first place, for the purpose of ascertaining whether or not the Indians are willing to dispose of any portion of their reservation, and if so, to secure their consent and agreement to the cession of that portion of the reservation referred to, provided satisfactory terms and conditions can be agreed upon. The consideration to be paid the Indians should be a definite, fixed sum, based upon the number of acres included in the cession, the same to be paid the Indians in cash or to be expended for their benefit, as may be determined by the negotiations. It is not necessary that the entire cash consideration shall be paid in

one payment; provision may be made for its payment in from one to ten or more annual installments, as may seem best. The price to be paid should be just and fair, both to the Indians and the United States.

None of the Indians of the Red Lake Reservation have received allotments in severalty. According to the census report of June 30, 1901, they number 1,366. The number of adult males can be obtained from the United States Indian Agent, Leech Lake Agency. There are some 20 or more Indian families residing upon the portion of the reservation for which negotiations are to be conducted. Some suitable and satisfactory provision should be made respecting these Indians, either by allotting them lands where they now reside or by purchasing their improvements and removing them to the retained portion of the reservation. It is only deemed necessary to call your attention to the matter to insure satisfactory provision for these families. The wishes of the Indians residing on the portion of the reservation it is proposed to cede should have very great weight in determining what disposition shall be made of them.

In arranging for the disposition of the proceeds arising from the cession of the lands, the special needs of the Indians should be very carefully considered. If a part of the consideration can best be expended annually by the Secretary of the Interior for the benefit of the Indians, such provision should form one of the important articles of the agreement. The amount of cash that shall be paid annually should also receive very careful consideration. Much, however, must be left to your discretion and the wishes of the Indians.

One article of the agreement should provide that it must be ratified and confirmed by Congress before it becomes binding, either upon the Indians or the United States.

You are hereby authorized to employ an interpreter and stenographer to assist you in conducting the negotiations. Acting Agent Scott of the Leech Lake Agency, will be directed to provide subsistence for the Indians when in council considering the negotiations.

Minutes of all council proceedings should accompany your report under these instructions, whether an agreement with the Indians is concluded or not.

Should you be able to conclude an agreement with the Indians one which you think would promote their interest and welfare—the same should be reduced to writing and executed in proper legal form for acceptance and ratification by Congress. It must contain the signatures of a majority of the adult male Indians residing and belonging upon the reservation. The signatures should be “under seal” and should be properly witnessed. The agreement must also be signed by yourself as United States Indian Inspector, the signature being properly witnessed. The signatures should be followed by proper certificates of the interpreter and the United States Indian agent, the latter to the effect that the Indians signing constitutes a majority of the adult male Indians of the reservation.

Proper instructions will be given the United States Indian agent of the Leech Lake Agency relative to subsisting the Indians while in council and relative to cooperating with you in conducting the proposed negotiations. Should you desire further information, the same should be called for; or should you desire further instructions upon any point you should ask for the same.

Upon the conclusion of the negotiations, whether successful or unsuccessful, you will make full report of your actions under these instructions to the Secretary of the Interior.

You will, accordingly, as early as practicable, after the receipt of these instructions, and under directions of the Secretary of the Interior, proceed to the Red Lake Reservation for the purpose of conducting the negotiations herein contemplated.

Very respectfully,

W. A. JONES,
Commissioner.

DEPARTMENT OF THE INTERIOR,
February 14, 1902.

Approved:

E. A. HITCHCOCK,
Secretary.

Mr. ELSTON. Mr. Chairman, it appears to me that that communication was an interpretation by the Indian Bureau as early as 1902 of the title to the whole of that diminished Red Lake Reservation, inasmuch as it distinctly recognizes in that communication that no one but Red Lakes have anything to do with the disposal of any part of that 700,000 acres, and that only they are to be considered and that when the agreement has been made by them and ratified by

Congress, the whole thing is settled. Now, I would like to ask if the Indian Bureau has followed the interpretation of that letter ever since.

Mr. MERITT. We have. It has been the position of the Indian Bureau long prior to the act of 1904 and ever since that the Red Lake Reservation belonged exclusively to the Red Lake Indians.

Mr. ELSTON. Of course, this letter was written before the act of 1904 and it practically compels the act of 1904 by having initiated proceedings which look forward to that act. It is perfectly obvious that if this agreement was consummated the concluding part of the paragraph would be the act of Congress, which it mentioned there. Now, was there any legislation previous to 1902, the date of this letter, that disposed the bureau to make the decision which that letter carries, that the Red Lakes, and the Red Lakes alone, have the title to that 700,000 acres?

Mr. MERITT. Yes, sir.

Mr. ELSTON. What was it?

Mr. MERITT. The proceedings in connection with the agreement which was confirmed by the Nelson Act of 1889.

Mr. ELSTON. Now, the act of 1889, of course, provided for negotiations for an agreement by which the diminished reservation should be created?

Mr. MERITT. Yes, sir.

Mr. ELSTON. And the remaining lands of the Red Lake Reservation shall be disposed of for the general benefit of the whole of the Chippewas, is the text of the act of 1889 itself, or something else?

Mr. MERITT. The conversation between the Indians and the commissioners who were sent to negotiate the agreement reads otherwise and for the information of the committee I will read three short paragraphs. The proceedings of the council from which I am now reading were dated July 3, 1889, and were held by the Red Lake Indians: Ah-Nuh-Ne-Ay-Ge-Shig said: "My friends," speaking to the Indians—

Mr. DALLINGER. Who was he?

Mr. MERITT. He was a Red Lake Indian. He was talking with the commission sent out there to negotiate with the Chippewa Indians.

Mr. RHODES. What page is that on?

Mr. MERITT. Page 71 of Executive Document No. 247, House of Representatives, Fifty-first Congress, first session:

My friends, we understand all your meanings; we are not foolish; we understand the whole thing. We wish to bring out another objection; the money that you wish to have as a fund, which will originate the interest, whatever belongs to the Red Lake Indians, we do not want consolidated with the money of any other band. It is on the same principle that you have property; you get the worth of your property; you are not going to share with a neighbor what you get for your own property. That is the way we want to do with this. We are very much obliged to you for waking us up, so that you find our objections. At the present time the feeling is, that it is best to adjourn, and under this understanding, the minds are made up—maybe the minds of the people will change after this explanation, and I move that we adjourn.

This is on July 4, 1889, in council with the Red Lake Indians:

May Dway Gon On Ind said in part:

Another objection that we have to the act is the allotment part; that allotments should be made to us in severalty. We wish that any land that we possess should be not only for our own benefit, but for our posterity, our grandchildren hereafter. And then another objection that we have to the act is the consolidation of our interests, the

interests of the Red Lake Indians. We think that we should own in common everything that pertains to us; with those that are suffering in poverty, just the same as we are; that is a serious objection. We have heard from you the explanation of how the money was to be expended; we have not a clear insight into it. That is all I have to say at present.

Now, one of the commissioners representing the Government, Bishop Marty, made this statement, which was in the proceedings of the council of the Red Lake Indians under date of July 4, 1889:

Bishop MARTY. * * * Now, this reservation being yours, you must do with it as your advantage dictates, and for the advantage of the whole Chippewa Nation. I am a messenger of the Great Spirit, and I will say here what I would say anywhere: If one man has a little more than another he is bound to help his neighbor. If you have a little more and help your neighbors with it, God will bless you for it. Neither you nor your children will lose anything by it. I have been following that rule now for over 50 years, and I am very well off.

Mr. DALLINGER. Do I understand that the bureau bases its opinion in regard to the ownership in fee of that Red Lake Reservation on some remarks made by some Red Lake Indians and this bishop as against the clear language of the act of Congress itself? Those remarks were made by parties in interest, and they naturally would be expected to make statements of that sort in support of their own claim. I am asking whether the Indian Bureau when it made certain recommendations to Congress in 1904, on which the act of Congress was based, relied on such remarks as those you have just read rather than upon the language of the act of 1889.

Mr. MERITT. There is no specific provision in the act of 1889 which gives all the Chippewa Indians the right to the lands of the Red Lake Reservation; on the contrary there is a specific provision in the act of 1904 which recognizes the right of the Red Lake Indians to all of the Red Lake Reservation. There is also a specific provision in the act of 1916 which recognizes the right of the Red Lake Indians to the entire Red Lake Reservation.

Mr. DALLINGER. I understood from what Mr. Ballinger read here that there was something in the act of 1889.

Mr. MERITT. Therefore it was the duty of the Indian Bureau to follow the clear and expressed wording in the acts of Congress referred to, namely, the acts of 1904 and 1916.

Mr. DALLINGER. I think that, of course, merely means that it was the duty of Congress to follow the course of action that was determined upon by the bureau previous to either one of those acts and I think it would be proper to say so, because that letter you read to that inspector who went out there to negotiate this agreement, indicates that the bureau itself made this formal decision away prior to the enactment of these two acts on which you base now your adherence to that view. Now, was the decision of the bureau with respect to the title to these Red Lake lands based on anything else, either statements of Indians on the Red Lake Reservation who would naturally be presumed to be interested in making such statements, or did you have the opinion of the Solicitor of the Interior Department on the act of 1889 with regard to the title of these lands, or do you rest more on just those statements that you spoke of?

Mr. MERITT. I am not going into details as to that feature of the acts, because Mr. Henderson, attorney for the Red Lake Indians, will point out those details; but I am simply giving now in an off-hand and extemporaneous way the laws bearing on this subject and

the reasons why the Indian Bureau has taken its position. In that connection it may be interesting to note that one of the witnesses to the agreement with the Red Lake Indians is Mr. B. L. Fairbanks, who is a very able and distinguished member of the Chippewa Tribe and who perhaps is the wealthiest Indian in the Chippewa country, and he is here now, associated with the mixed-blood Indians of the White Earth Reservation who are attempting to get control of a part of the property which the Red Lake Indians themselves claim as their exclusive property.

Mr. DALLINGER. I understand when you were interrupted you were combating the contention of Mr. Ballinger that the Indian Bureau initiated the legislation of 1904.

Mr. MERITT. That is the point I attempted to make.

Mr. DALLINGER. As a matter of fact, while you have produced here a letter to the Secretary of the Interior, who is over the Indian Bureau, signed by two Senators and the Members of Congress from the State of Minnesota, did not the legislation originate in the Interior Department? The matter might have been called to the attention of the Department of the Interior by the Senators and the Members of Congress, but was not the bill drafted by the Interior Department or by the Indian Bureau, as a matter of fact?

Mr. MERITT. We initiated this matter after we had been requested to do so by the Senators and Representatives from the State of Minnesota.

Mr. DALLINGER. But you would not have done so simply because the Senators and Representatives of the State of Minnesota asked you to do so if you did not believe that it was the proper thing for the Indians?

Mr. MERITT. Why, we did believe that it was the proper thing for the Indians, and we had no objection to the action taken.

Mr. DALLINGER. So really it is a plea in confession and avoidance, when you stated that Mr. Ballinger misstated the matter, when he said that the bureau initiated the legislation?

Mr. MERITT. We initiated it by taking up the matter with the Red Lake Indians and procured an agreement with the Red Lake Indians at the request of the Delegates in Congress from Minnesota. My purpose in bringing this out at this time was to controvert the statement of the very able counsel for the Chippewa General Council, who was assisted in preparing that statement by the general council, and the Indians from the White Earth Reservation, two of whom are able Chippewa Indian attorneys, and two others are able, capable, and prosperous merchants in the Chippewa country. If the general council of the Chippewa Indians could have their way in connection with this legislation they would have this legislation so worded that the Red Lake Indians would be at a disadvantage. It is our purpose to protect the interests of the Red Lake Indians, and we have modified the draft of the legislation they have prepared so as to contain this provision:

SEC. 7. That nothing in this act with reference to the sale and disposition of timber or land or other property shall, except as herein otherwise expressly provided, apply to the Red Lake Reservation, Minnesota.

Now, if we can get the bill as we have drafted it enacted by Congress, accompanied by the jurisdictional bill, it will place this whole controverted question in the courts so that it may be decided by the

Court of Claims, and if the parties are not satisfied with the decision of the Court of Claims they can take an appeal to the Supreme Court for final decision. It is not really necessary to thrash it out here. But Mr. Ballinger has at great length argued this proposition and laid the foundation to get the legislation that he wants in this bill, and I am now controverting that and pointing out that it should not be decided by Congress, but that it should be left for the courts to decide.

Mr. ELSTON. Is the bureau, meanwhile, taking action that goes on the theory that the Red Lake Indians own that 700,000 acres and to that extent making the Government of the United States liable for decisions made and distribution made, on that theory, or are you in the meantime, in view of the possibility that the general Chippewa Tribe will establish rights to those resources of the excess land, holding back any distributions under acts that would prejudice the United States later if the general tribe's rights should prevail over those of the Red Lake Indians? I think that should be an act of precaution.

Mr. MERITT. We recognize that the Red Lake Indians are entitled to the property within the Red Lake Reservation exclusively, following the act of 1904 and the act of 1916. We are quite willing that this question shall go to the Court of Claims for decision, and the department, of course, will conform to the final decision of the court.

Mr. ELSTON. Supposing the court should decide in favor of the general tribe and against the Red Lake Indians, what could be done by the bureau in the event of an interpretation of this law whereby the title of the Red Lake Indians will be brought into question and create a liability on the part of the Government?

Mr. MERITT. The Red Lake Reservation has not yet been allotted. The reservation is intact and the Government will be in a position to meet whatever decision is rendered by the court.

Mr. ELSTON. Even after the sale made under the act of 1904 and the distribution already made, will not the Government be liable?

The CHAIRMAN. There have been none.

Mr. ELSTON. There have been no sales made under the act of 1904?

The CHAIRMAN. No distribution to the Indians.

Mr. DALLINGER. Yes; there have.

Mr. ELSTON. There have been no sales under the act of 1904 to them, because you would have acted irrevocably on the theory of law that may prove erroneous. How much will we be liable for if the general Chippewa Tribe prevails? How much will we have to pay out?

Mr. DALLINGER. They figured a quarter of a million dollars at one time.

Mr. ELSTON. This is not a question of money alone.

Mr. MERITT. I would not like to say definitely the amount of money that is involved, but it will be in the neighborhood of a million dollars.

Mr. ELSTON. With the interest from the time it was paid.

Mr. MERITT. But, on the other hand, the Red Lake Indians are permitted to go to the Court of Claims with their claims against the Government. The Red Lake Indians believe that instead of them losing this case they will get a judgment that will give them not only the entire reservation, but a money judgment beside.

Mr. RHODES. Was that payment made under the act of 1889 or under the acts since that time?

Mr. MERITT. The proceeds from these ceded lands were paid out under the act of 1904.

Mr. ELSTON. You are evidently, in the things that are being done by the bureau, presuming that the Red Lake Indians are going to prevail in litigation, or you would not be making the distribution that you are making now, for fear that you would have to repay them. Would the Government be recouped on their payments to the Red Lakes, or would it be a mistake and the money paid them never be recovered?

Mr. MERITT. We would not discontinue administering the Indian affairs because of some alleged claims of Indians. It is our duty to go ahead and carry out the legislation enacted by Congress. On practically all these reservations the Indians have alleged claims against the Government. Pending the settlement of those claims we proceed in an orderly manner carrying out the laws of Congress and awaiting the determination of the litigation.

The CHAIRMAN. Is that all that you desire to ask upon this phase of the question? If so, Mr. Meritt can go ahead with his regular argument in rebuttal to Mr. Ballinger's testimony.

Mr. MERITT. Mr. Chairman, the statement was made by Mr. Ballinger that a large amount of the Chippewa funds were being wasted in the administration of the affairs of the Chippewa Indians and created the impression that it was impossible to get a statement of the financial affairs of those Indians. That statement, like a great many other statements that have been made in connection with Chippewa matters, is misleading. We submit to Congress annually a report showing exactly the amount of the moneys that are expended for administrative purposes and in order that the committees may have the information, and it shows exactly how the department expended the appropriations during the last fiscal year. I will ask that this short report be included in my testimony. It is found in House document No. 384, Sixty-sixth Congress, second session. This statement goes into detail, showing exactly how every dollar of the Chippewa funds are expended.

The CHAIRMAN. Without objection it is so ordered.

Mr. MERITT. The report referred to is as follows:

[House of Representatives. Document No. 384, Sixty-sixth Congress, second session.]

DEPARTMENT OF THE INTERIOR,

Washington, December 1, 1919.

SIR: In compliance with the provisions of the act approved May 18, 1916 (39 Stat.; 123-135), I have the honor to transmit herewith a detailed statement of expenditures from the tribal funds of the Chippewa Indians of Minnesota for the fiscal year ended June 30, 1919.

Respectfully,

ALEXANDER T. VOGELSANG,
Acting Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Statement of expenditures for the fiscal year 1919 from the tribal funds of the Chippewa Indians of Minnesota, as required by the act of May 18, 1916 (39 Stats. L., 135).

CHIPPEWA IN MINNESOTA FUND, PROMOTING CIVILIZATION AND SELF-SUPPORT, \$175,000 AUTHORIZED IN THE ACT OF MAY 25, 1918 (40 STATS. L., 573).

	Salaries, wages, etc.	Traveling expenses.	Trans- portation of sup- plies.	Telegraph and tele- phone service.	Station- ery and printing and med- ical and school- room supplies.	Subsit- ence and clothing.	Forage.	Fuel, lu- bricants, etc.	Equip- ment and mis- cellane- ous ma- terial.	Repair and rent of build- ings.	Per capita and pro- rata pay- ments to Indians.	Miscella- neous.	Total.
Cass Lake School.....	\$204.00	\$27.58		\$8.60	\$91.88	\$2,957.08	\$454.45	\$315.17	\$363.48	\$87.84			\$4,510.08
Fond du Lac Agency.....	6,592.00	171.59		63.37	412.24	2,330.78	285.92	325.08	594.45	190.29		\$531.51	11,560.45
Fond du Lac Schools.....			\$103.22		133.80	329.91		927.05	118.71	29.81			1,539.88
Grand Portage Agency.....	1,047.50	145.50	5.55	17.16	219.35	1,046.74	413.45	21.00	75.28	36.00		61.64	3,089.17
Grand Portage School.....	10,775.05				6.43	174.19		496.08	16.10				692.80
Leech Lake Agency.....	1,361.70	1,361.70	387.41	23.15	629.92	1,348.35	970.47	2,313.05	547.52			561.00	18,917.62
Leech Lake Schools.....		65.70		10.70	11.11	1,338.64	242.39	517.32	145.00	39.76		53.55	2,424.17
Nett Lake Agency.....	3,248.65	348.48	14.78	4.13	47.31	957.38	1,023.31	558.70	398.49	15.00		77.50	6,693.73
Nett Lake School.....					132.16	750.02		442.61	186.90				1,511.69
Red Lake Agency.....	11,489.55	62.35	333.61	2.98	681.16	1,420.14	2,514.46	1,337.40	1,109.07			391.33	19,342.95
Red Lake Schools.....		8.03	351.31		31.62	8,130.36	1,904.28	3,036.01	390.02	86.83			131.10
Red Lake Mission School.....												15,292.00	5,292.00
Vermilion Lake School.....	425.60	5.00	68.14	49.73	270.51	3,878.23	1,135.34	3,243.77	480.58			184.85	9,825.03
White Earth Agency.....	17,927.77	736.70	2,980.53	200.23	963.88	8,395.27	1,745.41	2,443.97	1,191.14			52.10	36,631.70
White Earth Schools.....	35.50	96.54	569.22	4.30	668.68	18,942.87	1,958.67	9,343.64	1,177.95	57.96		31.13	26,886.46
Delegates, etc.....		5,488.71											5,488.71
Total.....	51,700.62	8,517.88	4,813.77	384.95	4,299.75	46,019.96	12,698.15	25,320.85	6,794.69	576.77		7,367.71	168,495.10

CHIPPEWA IN MINNESOTA FUND CASS LAKE ROAD, UNEXPENDED BALANCE OF \$5,000 AUTHORIZED IN THE ACT OF MAR. 2, 1917 (39 STATS. L., 978),
FOR BRIDGE AUTHORIZED IN THE ACT OF MAY 25, 1918.

Cass Lake School.....	\$3,717.78								\$282.22				\$4,000.00

¹ Care and education of pupils.

Statement of expenditures for the fiscal year 1919 from the tribal funds of the Chippewa Indians of Minnesota, as required by the act of May 18, 1916 (39 Stats. L., 135)—Continued.

CHIPPEWA IN MINNESOTA FUND, INCREASE OF COMPENSATION.

	Salaries, wages, etc.	Traveling expenses.	Trans- portation of sup- plies.	Telegraph and telc- phone service.	Station- ery and printing and med- ical and school- room supplies.	Subsist- ence and clothing.	Forage.	Fuel, lu- bri- cants, etc.	Equip- ment and mis- cellane- ous ma- terial.	Repair and re- build- ings.	Per capita and pro- rata pay- ments to Indians.	Miscella- neous.	Total.
Fond du Lac Agency.....	\$906.26												\$906.26
Grand Portage Agency.....	96.50												96.50
Leech Lake Agency.....	1,372.68												1,372.68
Neet Lake Agency.....	438.99												438.99
Red Lake Agency.....	1,755.85												1,755.85
White Earth Agency.....	2,651.43												2,651.43
Total.....	7,221.71												7,221.71

CHIPPEWA IN MINNESOTA FUND, PURCHASE OF LAND FOR HOMELESS MILLE LAC INDIANS, \$40,000 AUTHORIZED IN THE ACT OF AUG. 1, 1914 (30 STATS. L., 591).

White Earth Agency.....												\$11,017.00	\$11,017.00
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CHIPPEWA IN MINNESOTA FUND, LOGGING OPERATIONS, ACT OF JUNE 27, 1902 (32 STATS. L., 400).

Leech Lake Agency.....	\$2,640.00												\$2,640.00
Superintendent of logging.....	3,744.67	\$1,909.96			\$0.48				\$0.95	\$540.00			6,204.06
Total.....	6,384.67	1,909.96			.48				.95	540.00			8,844.06

CHIPPEWA IN MINNESOTA FUND, COUNCIL AND DELEGATIONS, ACT OF MAY 25, 1918 (40 STATS. L., 573).

Council and delegations.....	\$850.00	\$1,430.16										\$1,000.00	\$3,280.16
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CHIPPEWA IN MINNESOTA FUND, PER CAPITA PAYMENTS, REFUNDS, ETC.

Fond du Lac.....										\$143.07		\$143.07
Leech Lake.....										130.60		130.60
Nett Lake.....										65.30		65.30
White Earth.....										914.20		914.20
Various persons.....											\$210.92	210.92
Total.....											1,233.17	1,404.09

INTEREST ON CHIPPEWA IN MINNESOTA FUND.

Cass Lake.....	\$1,580.33									\$10.56	\$39.47	\$20,448.00	\$1,590.89
Fond du Lac.....	2,882.17									4.61		5,894.00	22,016.02
Grand Portage.....	2,499.70									47.02	239.85	32,860.00	8,512.75
Leech Lake.....	11,555.74									23.51		10,872.70	44,866.74
Nett Lake.....	1,783.66									25.30		27,667.50	12,714.67
Red Lake.....	16,044.55									20.43	85.60		44,348.63
Vermilion Lake.....	11,646.19									799.30	5.80		12,711.14
White Earth.....	19,719.05									10.02			139,538.27
White Earth Mission School.....													9,523.24
Total.....	67,213.39	99.25	3.73	2.20	65.75	281.32	178.83	245.82	915.45	390.72	217,641.40	9,684.49	296,722.35
Grand total.....	137,083.17	11,957.25	4,817.50	387.15	4,365.98	46,301.28	12,876.98	25,566.67	8,001.31	1,507.49	218,894.57	29,280.12	501,044.47

¹ Land.² Attorneys' fee.³ Care and education of pupils.

RECAPITULATION.

Chippewa in Minnesota fund:													
Civilization and self-support.....													\$168,495.10
Cass Lake Road.....													4,000.00
Increase of compensation.....													7,221.71
Purchase of land for homeless Mille Lacs.....													11,017.00
Logging operations.....													8,844.06
Per capita payments, refunds, etc.....													1,464.09
Council and delegations.....													3,280.16
Interest on Chippewa in Minnesota fund.....													296,722.35
Total.....													501,044.47

NOTE.—Expenditures from "Interest on Chippewa in Minnesota fund" were for school purposes excepting amounts for per capita payments.

Mr. MERITT. There is also complaint of large amounts of funds that are being expended for administrative purposes. I want to point out to the committee that what they call administrative purposes is misleading because we are required by law to pay out this money, not only for school purposes, but for per capita payments, and they have got us charged up with the expenditure of the Chippewa funds for administrative purposes when we pay the money out to them per capita and when we are following the legislation enacted by Congress regarding the distribution of their funds, support of their schools, and so forth. In support of this statement, Mr. Chairman, I want to read into the record section 7 of the act of January 14, 1889:

That all money accruing from the disposal of said lands in conformity with the provisions of this act shall, after deducting all the expense of making the census, of obtaining the cession and relinquishment, of making the removal and allotments, and of completing the surveys and appraisals, in this act provided, be placed in the Treasury of the United States to the credit of all the Chippewa Indians in the State of Minnesota as a permanent fund, which shall draw interest at the rate of 5 per cent per annum payable annually, for the period of 50 years, after the allotments provided for in this act shall have been made, and which interest and permanent fund shall be expended for the benefit of said Indians in the manner following: One-half of said interest shall, during the said period of 50 years, except in the cases hereinafter otherwise provided, be annually paid in cash in equal shares to the heads of families and guardians of orphan minors for their use; and one-fourth of said interest shall, during the same period and with the like exception, be annually paid in cash in equal shares per capita to all other classes of said Indians; and the remaining one-fourth of said interest shall, during the said period of 50 years, under the direction of the Secretary of the Interior, be devoted exclusively to the establishment and maintenance of a system of free schools among said Indians, in their midst and for their benefit, and at the expiration of the said 50 years, the said permanent fund shall be divided and paid to all of said Chippewa Indians and their issue then living, in cash, in equal shares: *Provided*, That Congress may, in its discretion, from time to time, during the said period of 50 years, appropriate for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding 5 per cent thereof. The United States shall, for the benefit of said Indians, advance to them as such interest as aforesaid the sum of \$90,000 annually, counting from the time when the removal and allotments provided for in this act shall have been made, until such time as said permanent fund, exclusive of the deductions hereinbefore provided for, shall equal or exceed the sum of \$3,000,000, less any actual interest that may in the meantime accrue from accumulations of said permanent fund; the payments of such interest to be made yearly in advance, and, in the discretion of the Secretary of the Interior, may, as to three-fourths thereof, during the first five years be expended in procuring live stock, teams, farming implements and seed for such of the Indians to the extent of their shares as are fit and desire to engage in farming, but as to the rest in cash; and whenever said permanent fund shall exceed the sum of \$3,000,000 the United States shall be fully reimbursed out of such excess for all the advances of interest made as herein contemplated and other expenses hereunder. * * *

I quoted this provision for the purpose of showing that we are required by legislation to do certain things in the Chippewa country, and we are doing these very things required of us. We make an annual report to Congress showing exactly where every dollar of Chippewa funds is expended.

The CHAIRMAN. What allotments have been made under that section? There have been no allotments made to the Red Lake Band?

Mr. MERITT. No, sir; this section does not require that allotments shall be made on the Red Lake Reservation. This section refers to distribution of moneys in the administration of Indian affairs. I will explain later the reason why we have not made allotments on the Red Lake Reservation.

The CHAIRMAN. This is 31 years ago.

Mr. MERITT. I will explain that later.

The CHAIRMAN. As I understand it, the 50-year period does not commence until after those allotments have been made.

Mr. MERITT. Yes, sir; that is claimed, but not admitted.

Mr. DALLINGER. How was that act applied? I can not see how that act has any application.

The CHAIRMAN. It has no application up to this time in so far as winding up the agreements; it has not had any effect whatever, because no allotments have been made.

Mr. MERITT. We are educating the children and making per capita payments required, and we are promoting their civilization and self-support among the Chippewa Indians, and it would cost money to carry out those provisions.

THE CHAIRMAN. Certainly you have been operating the business up there. I am not prepared to say that you do not operate it pretty well, but as to the winding up of this 50-year period, that has not begun.

Mr. MERITT. That is the contention that Mr. Ballinger made. That point has never been to my knowledge officially decided by any legal authority of the Government.

The CHAIRMAN. What is your opinion with regard to it? I have understood from your conversations here that you agreed with that statement.

Mr. MERITT. My opinion is that the Congress of the United States is not required to wait for the termination of the 50-year period to wind up the affairs of the Chippewa Indians.

The CHAIRMAN. That is, subsequent legislation could wind up this agreement?

Mr. MERITT. Congress can at any time in its discretion wind up the affairs of the Chippewa Indians before the expiration of the 50-year period.

The CHAIRMAN. But that winding up would not prevent objectors here from attempting to undo those proceedings, would it? It seems to me that is exactly the situation we are in here now. If this agreement had been carried out as it was originally planned in the legislation we would not be able to-day to attempt to straighten out the mix up. It looks to me that unless we can get all the parties to agree to this legislation that in a few years we will be right back where we are now—attempting to straighten out the question of difficulties we have created by new legislation.

Mr. MERITT. I think that Congress has absolute authority, as was pointed out by Mr. Hastings, to wind up the Chippewa affairs.

Mr. ELSTON. You were coming later to the point of making new allotments?

Mr. MERITT. Yes, sir.

The CHAIRMAN. Proceed in your own way.

Mr. MERITT. Mr. Chairman, in addition to furnishing this annual statement regarding the affairs of the Chippewa Indians, the department under date of March 22, 1912, submitted a report to Congress regarding the funds and property of the Chippewa Indians of Minnesota. This report is entitled, "Report of the Secretary of the Interior, and the Commissioner of the General Land Office, on House Resolution 144, 62d Congress, relating to funds and prop-

erty of the Chippewa Indians of Minnesota, arising out of the sale of lands and timber under the act of Congress dated January 14, 1889, and acts amendatory thereto." This information is found in House Document No. 645, 62d Congress, second session. It is rather long and I will not ask that it be printed here but will give the document number for the information of the committee.

I point these matters out, Mr. Chairman and gentlemen of the committee, in refutation of the statement of Mr. Ballinger that it is difficult to get information in regard to the affairs of the Chippewa Indians.

Now, as to the allotments on the Red Lake Reservation and the reasons why allotments have not been made. There are several reasons why we have not yet made allotments on the Red Lake Reservation, the principal reasons being, first, the reservation needs to be drained before the lands are susceptible of cultivation; second, that part of the reservation is covered with very fine pine forests and if we should allot this reservation at this time we would be in a position of being compelled to give some Indians lands that could not be cultivated because they are not drained and, on the other hand, of giving the Red Lake Indians timber allotments that are worth anywhere from \$10,000 to \$25,000. That would be absolutely unjust to the Red Lake Indians. The Red Lake Indians have petitioned the department not to make allotments to them. It is true that there are a few of the Red Lake Indians who would like to have allotments but we must be governed in this matter by what is best for all of the Red Lake Indians.

Then, again, gentlemen of the committee, it is a well-known fact that there were great frauds perpetrated on the Indians of the White Earth Reservation. Their methods of perpetrating these frauds were to get the Indians allotted and then pass legislation removing the restrictions so that they could be deprived of their property. These same interests, certain lumbering interests and certain other interests, have been trying for years to get hold of the property of the Red Lake Indians. We have so far protected the Red Lake Indians in their property rights. To-day they own every foot of the land within the Red Lake Reservation, whereas on the White Earth Reservation, probably 80 per cent of the lands have passed from the ownership of the Indians into the hands of the white people and, as I have pointed out to you, there were great frauds in connection with the White Earth Reservation allotments and timber matters and the printed documents of Congress contain full information on this subject. There was an investigation in the years 1911 and 1912 by a congressional committee and it shows clearly the conditions that obtained on the White Earth Reservation at that time and it would be interesting reading for the members of this committee to look over these documents and see to what extent the land grafters and the timber thieves went in depriving the White Earth Indians of their property rights.

The CHAIRMAN. Right at this point, what is being done to-day with that property in order to get it in a position so that it can be allotted.

Mr. MERITT. Reports have been made as to the cost of draining the Red Lake lands. As you know, Mr. Chairman, during the war

it was absolutely impossible to get appropriations from Congress for work of that character.

The CHAIRMAN. But this situation has existed for 31 years.

Mr. MERITT. There is now pending before Congress legislation authorizing the drainage of that reservation and we are submitting a favorable report on that bill with certain modifications. We hope to get this reservation drained within the near future and we are also now selling the timber on that reservation.

The CHAIRMAN. You are selling it now?

Mr. MERITT. At this time.

The CHAIRMAN. On the stump or are you cutting it off?

Mr. MERITT. We are selling it to the International Lumber Co. under contract, and for the information of the committee, I will place in the record at this point our contract with that lumber company so that the terms of the contract may be available.

(The contract referred to is as follows:)

TIMBER CONTRACT, RED LAKE INDIAN RESERVATION.

This agreement made and entered into at the Red Lake Indian School, State of Minnesota, this 19th day of November, 1917, under authority of the act of Congress of May 18, 1916 (39 Stat. L., 123, 137), and the regulations and instructions for officers in charge of forests on Indian reservations, approved June 29, 1911, as amended March 17, 1917, between the Superintendent of the Red Lake Indian School, for and on behalf of the Red Lake Indians, party of the first part, and International Lumber Co., of International Falls, State of Minnesota, party of the second part.

Witnesseth: That the party of the first part, agrees to sell to the said International Lumber Co., party of the second part, upon the terms and conditions herein stated, all the merchantable dead timber, standing or fallen, and all the live timber marked, or otherwise designated for cutting by the proper officer of the Indian Service, estimated to be approximately 72,000,000 feet, board measure, log scale (approximately 65 per cent white pine, 27 per cent Norway pine, and the remainder of Jack pine, spruce, cedar, tamarack and balsam), located upon the designated area of approximately 51,300 acres as hereinafter described.

For and in consideration of the foregoing, International Lumber Co., party of the second part, agrees to pay to the superintendent of the Red Lake Indian School, State of Minnesota, for the use and benefit of the Red Lake Tribe of Indians, the full value of the said timber, as shall be determined by the actual scale of the timber as it shall be cut, at fixed rates per thousand feet, board measure, Scribner decimal C scale, which rates shall be as follows:

White pine.....	per M..	\$14. 10
Norway pine.....	do....	10. 25
Spruce.....	do....	10. 00
Tamarack.....	do....	5. 00
Cedar.....	do....	4. 00
Jack pine.....	do....	4. 00
Balsam.....	do....	3. 50
Cedar and tamarack railroad ties.....	each..	. 18
Spruce and balsam pulp.....	per cord..	1. 50
Cedar posts:		
7 feet long, 3 and 4 inch tops.....	per post..	. 015
7 feet long, 5 to 7 inch tops.....	do....	. 025
8 feet long, 4 to 7 inch tops.....	do....	. 04
8 feet long, 8 and 9 inch tops.....	do....	. 10
10 feet long, 4 to 7 inch tops.....	do....	. 05
10 feet long, 8 to 10 inch tops.....	do....	. 15
12 feet long, 4 to 7 inch tops.....	do....	. 06
14 feet long, 4 to 7 inch tops.....	do....	. 08
16 feet long, 4 to 7 inch tops.....	do....	. 09
18 feet long, 4 to 7 inch tops.....	do....	. 12

Cedar poles:

20 feet long, 4 to 8 inch tops.....	per pole..	\$0. 15
25 feet long, 5 to 8 inch tops.....	do....	. 25
30 feet long, 6 to 8 inch tops.....	do....	. 65
35 feet long, 6 to 8 inch tops.....	do....	1. 35
40 feet long, 7 to 9 inch tops.....	do....	2. 65
45 feet long, 7 to 9 inch tops.....	do....	3. 95
50 feet long, 7 to 10 inch tops.....	do....	4. 75
55 feet long, 7 to 10 inch tops.....	do....	9. 00
60 feet long, 7 to 10 inch tops.....	do....	10. 00

and International Lumber Co., party, of the second part, further agrees to cut and remove the said timber in strict accordance with the following conditions and all regulations governing timber sales prescribed by the Secretary of the Interior:

1. The term "officer in charge," whenever used in these regulations, signifies the officer designated by the Commissioner of Indian Affairs to supervise timber operations on the Red Lake Reservation.

2. The sale includes an area of approximately 51,300 acres to be designated on the ground before cutting begins. The boundaries of the unit are definitely shown on the attached map, which is made a part of this contract, and are further described as follows:

Beginning at a point where the range line between ranges 35 and 36 west intersects the southern boundary of the Red Lake Reservation; thence east about $18\frac{1}{4}$ miles to eastern boundary of reservation; thence north $5\frac{1}{2}$ miles to shore of Lower Red Lake; thence west along shore line about $3\frac{1}{4}$ miles to line between sections 21 and 22, township 151 north, range 33 west; thence south three-fourths mile; thence west $1\frac{1}{2}$ miles; thence south three-fourths mile; thence west one-fourth mile; thence south one-fourth mile; thence west $7\frac{1}{4}$ miles; thence south 1 mile to township line between townships 150 and 151 north; thence west 6 miles to range line between ranges 35 and 36 west; thence south on said range line to place of beginning.

3. This contract will extend for a period of four years and eight months from November 15, 1917, or until July 15, 1922. The actual cutting of timber, other than for construction purposes, will begin on or before January 1, 1918. All timber on areas badly injured by fire or storm will be paid for, cut, and removed prior to August 1, 1918, and not less than 15,000,000 feet will be paid for, cut, and removed during each 12 months succeeding October 15, 1918, unless the Secretary of the Interior shall relieve the purchaser from cutting this minimum amount during any specified period because of unusual conditions involving serious hardship in a compliance with such requirement. All timber covered by this contract will be paid for, cut, and removed prior to June 15, 1922.

4. The timber will be paid for in advance payments of not less than \$10,000 each when called for by the officer in charge, except that the last payment in any logging season may be in a sum not less than \$2,500. The amount deposited with the accepted bid will be credited against the first payment. Payments for the timber shall be made to the superintendent of the Red Lake Indian School.

5. Only fallen, dead, and mature timber is to be logged under this contract. The question of what trees are immature will be determined by representatives of the Indian Service; but it is understood and agreed that approximately 80 per cent of the timber within the sale area is properly classifiable as fallen, dead, or mature and shall be cut under this contract.

6. No timber will be cut until it has been paid for and no timber will be removed from the sale area until it has been scaled and stamped by the officer in charge.

7. No timber will be cut except from the area specified by the officer in charge. No live timber will be cut except that marked or otherwise designated by the officer in charge. All dead timber standing or fallen, which is sound enough for lumber of any merchantable grade, and all green trees marked or otherwise designated for cutting by the officer in charge will be cut.

8. All merchantable timber used in buildings, skidways, bridges, construction of roads or other improvements, will be paid for at the contract price.

9. No unnecessary damage will be done to young growth or to trees left standing. Unmarked trees that are badly damaged during the process of logging will be cut if required by the officer in charge, and when such damage is due to carelessness, will be paid for at twice the price fixed by the contract. Unmarked living trees that are cut without the special direction of the officer in charge will also be scaled and paid for at twice the contract price.

10. Stumps will be cut so as to cause the least possible waste, and will not be cut higher than two-thirds the diameter of the stump, lower when possible, except in

unusual cases when, in the discretion of the officer in charge, this height is considered impracticable.

11. All trees will be utilized to as low a diameter in the tops as possible so as to cause the least waste, and to a minimum diameter of 6 inches when the tops are straight and sound; the log lengths will be so varied as to make this possible. All merchantable logs 10 feet or over in length will be taken, and shorter logs which are taken will be paid for. Trees shall be sawed into such lengths and products as shall give the greatest stumpage value, and if otherwise cut they shall be scaled as of such lengths and products as to give the greatest stumpage value.

12. Tops will be lopped and all brush piled compactly at a safe distance from living trees, as directed by the officer in charge. Unless written directions for other disposition shall have been issued by the officer in charge the brush and slash shall be burned by the purchaser as the logging proceeds, and under such precautions as the officer in charge may prescribe to prevent the spread of fire or the injury of standing timber, ordinarily prior to skidding.

13. The timber will be scaled by competent scalers selected by the Commissioner of Indian Affairs. Timber will be scaled by the Scribner decimal C rule and if required by the officer in charge will be skidded for scaling as he may direct. The maximum scaling length of all logs will be 18 feet; greater lengths will be scaled as two or more logs; on all logs 3 inches additional length will be allowed for trimming; logs overrunning this limit will be scaled as though 2 feet longer. Logs containing not less than 25 per cent of merchantable timber will be considered merchantable. Hewn railroad ties, used for logging purposes within the sale area, whose widest diameter inside the bark at the small end exceeds 12 inches, will be scaled; smaller hewn ties will be counted and 40 ties considered equivalent to 1,000 feet b. m.; diameters will be measured inside the bark at the top of the logs and recorded at the nearest inch above or below the actual average diameter.

14. All cutting shall be done with a saw when possible. Marked trees or merchantable dead trees left uncut, timber wasted in tops, stumps and partially sound logs, trees left lodged in the process of felling, and any timber merchantable according to the terms of the contract which is cut and not removed from the area sale before logging on that portion of the area is completed, or is left within any part of the sale area after the expiration of the contract, shall be scaled and paid for. Both dead and marked green trees and snags considered a fire menace by the officer in charge will be felled, but only such portions of them as are merchantable under the terms of the contract need be logged and paid for. Double scale will be charged for such trees if left uncut.

15. During the contract the purchaser and all of his employees, subcontractors, and employees of subcontractors, shall do all in their power both independently and upon the request of forest officers to prevent and suppress forest fires. Unless prevented by circumstances beyond his control the purchaser, together with his employees, subcontractors, and employees of subcontractors, will be placed at the disposal of any authorized officer of the Indian Service for the purpose of fighting fires, provided that if the fire does not threaten the property of the purchaser or the area embraced in the contract, he will be reimbursed for services so rendered, unless the purchaser is directly or indirectly responsible for the origin of the fire.

16. So far as is reasonable all branches of the logging shall keep pace with one another, and in no instance shall the brush disposal be allowed to fall behind the cutting except when the depth of snow or other adequate reason makes proper disposal impossible, when the disposal of brush may, with the written consent of the officer in charge, be postponed until conditions are more favorable. Operations shall be continued on each legal description or other unit of the sale area as determined by the officer in charge until the logging of each unit is completed to his satisfaction.

17. Necessary skid roads, log chutes, camps, buildings or other structures will be located as agreed upon with the officer in charge. Logging railroads within the reservation may be constructed under free permits to be issued by the Commissioner of Indian Affairs. The way for such railroad shall be cut free from combustible materials for a distance of 50 feet on each side of the track where such clearing is considered necessary by the officer in charge as a precaution against forest fires. Sawmills constructed in connection with timber operations upon the reservation shall be constructed under permits issued by the Commissioner of Indian Affairs. Bonds in addition to that submitted in support of the contract shall not be required: *Provided*, That the timber sale bond shall also cover the terms of such permits. Commissaries, construction camps, and all other buildings and improvements constructed upon the sale area or other Indian lands in connection with logging or railroad operation will be constructed under permits issued by the superintendent of the Red Lake Indian School. Such permits will require that the ground in the vicinity of all structures shall be kept in a sanitary

condition; that all rubbish shall be removed and burned or buried or otherwise disposed of as directed by the officer in charge; that when camps or other buildings are abandoned or removed all debris shall be burned or otherwise disposed of as directed by the officer in charge; and that all buildings or other structures shall be removed from the sale area within six months from the date of the termination of the contract or become the property of the United States in trust for the Red Lake Indians. Telephone lines shall be constructed under permits issued by the superintendent of the Red Lake Indian School. Such permits will provide that free use of such lines shall be allowed to Indian Service officers for official business and that no stumpage charge will be made for poles used in construction of these lines if, in the judgment of the officer in charge, they are of sufficient value to the Indian Service to make this concession equitable. All other telephone lines, trails, and traveled roads traversing the cutting area, which are now constructed or shall hereafter be constructed by other parties than the purchaser, shall be kept open and free at all times from obstruction by logs, brush and debris caused by logging operations, and all telephone lines, trails and roads damaged or destroyed by logging operations shall be repaired or rebuilt as required by the officer in charge.

18. Donkey engines or steam skidders may be used in logging on all portions of the sale area except Sections 1, 2, 11, 12, 13, and 14 of township 150 north, range 33 west, and sections 24, 25, 35 and 36 of township 151 north, range 33 west, but no unnecessary damage shall be done to trees left standing and to reproduction. Such engines and skidders may be used within portions of the excepted area with the written permission of the officer in charge.

19. Between April 1 and November 1, of each year, all locomotive, donkey engines, or other steam power engines when not burning oil, shall each be equipped with an efficient spark arrester which is satisfactory to the officer in charge. During this period each year donkey engines shall be equipped with a steam pump with not less than a 1-inch discharge, 150 feet of fire hose, 6 buckets and a constant supply of the equivalent of 6 barrels of water, and at least 5 shovels, this equipment to be suitable for fire-fighting purposes and to be so used when necessary.

20. At each setting of each donkey engine or other steam logging contrivance in which oil is not used as fuel, the ground shall be cleared of all inflammable material for a distance of 50 feet in all directions. During the period from April 1 to November 1 of each year no donkey engine or other steam logging contrivance in actual use for which oil is not used for fuel shall be left during the noon hour without a watchman and during the same period the purchaser may be required to employ a night watchman to guard against the escape of fire from logging engines.

21. No rigging shall be slung upon trees left for seed unless absolutely necessary. Where it is necessary to fasten chockers or straps around trees which are to be left for seed, they shall be protected from girdling by first encircling the trees with suitable poles of blocks of wood.

22. The approximate minimum diameter limit at a point 4½ feet from the ground to which living trees are to be cut is 12 inches. Trees above these diameters may be reserved for seed or protection and merchantable trees below these diameters may be marked at the discretion of the officer in charge.

23. The purchaser will pay for damage to property of the Indians growing out of his operations under the sale. The purchaser shall comply with all regulations relative to the maintenance of order on Indian reservations. Indian labor shall be employed in the cutting and removal of the timber and in the disposal of the brush whenever the use of such labor is practicable.

24. The title to the timber covered by the contract shall not pass to the purchaser until it has been paid for and scaled, measured, or counted.

25. All questions relative to the location of railroad spurs, the exact areas to be logged, the location of all structures, and the requirements to be observed in their construction, and other matters concerned with the operations of the purchaser upon the sale area shall be settled by the officer in charge. Final decisions as to points involved in the interpretation of the regulations and provisions of the contract governing the sale, cutting, and removal of the timber shall be rendered by the Secretary of the Interior. Work may be suspended by the officer in charge if the terms of the contract are disregarded, and the violation of any one of such terms, if persisted in, shall be sufficient cause for the revocation of the contract and the cancellation of other permits and privileges.

26. Refunds of deposits under the contract shall be made only at the discretion of the Secretary of the Interior.

27. This contract shall be void and of no effect until approved by the Secretary of the Interior, and no assignment of the same in whole or in part shall be valid without the written consent of the said Secretary.

28. No Member of or Delegate to Congress shall be admitted to any share, part, or interest in any contract, or to any benefit derived therefrom (see secs. 114 and 116, act of Mar. 4, 1909, entitled "An act to codify, revise, and amend the penal laws of the United States," 33 Stat., 1088, 1109), and no person undergoing a sentence of imprisonment at hard labor shall be employed in carrying out any contract. (See Executive order of May 18, 1905.) The cutting or removal of timber from Indian lands in breach of the terms of any contract, and without other lawful authority, or the leaving of fires unextinguished will render the contractor liable to the penalties prescribed by section 6 of the act of June 25, 1910 (36 Stat. L., 855, 857).

29. As a further guaranty of a faithful performance of this contract the said party of the second part agrees to furnish within 30 days from the execution of this contract a bond in the penal sum of \$25,000, and further agrees that upon the failure on his part to fulfill any and all of the conditions and requirements hereinbefore set forth all moneys paid under this agreement shall be retained by the United States to be applied as far as may be to the satisfaction of their obligations assumed hereunder.

Witnesses:

H. FOSSE.

C. H. WOODFORD.

G. H. BLAKESLEE.

STANLEY J. JOHNSON.

INTERNATIONAL LUMBER CO.,
By T. W. BACKUS, *Vice President*.
THOS. McLAREN, *Secretary*.

WALTER F. DICKENS,
Superintendent Red Lake Indian School.

DEPARTMENT OF THE INTERIOR, *December 11, 1917*.

Approved

S. G. HOPKINS, *Assistant Secretary*.

EVIDENCE OF AUTHORITY TO SIGN CORPORATE INSTRUMENTS.

I, Thos. McLaren, secretary of the International Lumber Co., a corporation organized and existing under the laws of the State of Minnesota, do hereby certify that at a duly called meeting of the board of directors of said company, at which a quorum of said directors was present, held at Minneapolis, Minn., on the 10th day of November, 1917, a resolution was adopted, of which the following is a correct copy:

"The president reported to the directors that on November 1, 1917, the company, by its vice president, authorized a bid to be made for certain timber to be sold by United States Government on the Red Lake Indian Reservation, State of Minnesota, at a sale to be held in Washington on November 5, 1917, or any adjourned date thereof, and that such bid had been accepted by the Government.

"*Resolved*, That the action of the vice president in making said bid be, and is hereby, duly ratified; and it is further

"*Resolved*, That in the contemplated absence of the president, the vice president is hereby empowered and duly authorized to do each and every act necessary to the proper completion of the purchase from the Government of said timber and to execute any contract or bond necessary thereto."

I further certify that on the 19th day of November, 1917, the above resolution was still in force and that on the said 19th day of November, 1917, S. W. Backus was the vice president of said company.

In witness whereof, I have hereunto set my hand and affixed the seal of the said company, this 24th day of November, 1917.

THOS. McLAREN, *Secretary*.

Mr. RANDALL. That is a Canadian concern, is it not?

Mr. MERITT. I think it is a Minnesota company. They have interests in Minnesota with headquarters at Minneapolis.

The CHAIRMAN. I would like to ask you if you know whether or not the White Earth Band, whom you claim were so fearfully defrauded in the conversion of their property and these assets into money, feel that they were badly treated at that time and defrauded to a great extent.

Mr. MERITT. They do, and these documents are full of testimony showing how badly they were defrauded.

The CHAIRMAN. And you feel now that you have so surrounded the activities of the Red Lake Indians in the conversion of their wealth

and the value of their property that there will be no fraud or robbery or anything of that sort?

Mr. MERITT. There will not be any fraud and robbery if there is no legislation gotten through Congress like they got through the Congress in the year 1906. We are going to do everything we can to prevent legislation of that kind being enacted and we are furnishing information to the committee at this time with the hope that if that legislation is attempted to be gotten through Congress that it will be blocked.

The CHAIRMAN. What has happened to the legislation that permitted this fraud of which you speak? Does that still exist? Is that still law?

Mr. MERITT. It is still law, and the Indians very quickly after the passage of that legislation disposed of their property interests, and the department was not in a position to prevent it, although we have recovered for some of those Indians money to the extent of between one and two million dollars, referred to yesterday by Mr. Ballinger.

The CHAIRMAN. Then the contract which exists now for the taking off of this lumber is with one concern only?

Mr. MERITT. Yes, sir. There is still some timber on the Red Lake Reservation that has not been sold nor contracted for.

Mr. DALLINGER. Your idea is to have it all cut off and turned into money?

Mr. MERITT. Our idea is to have practically all of the timber eventually sold and the proceeds go to the Red Lake Indians.

The CHAIRMAN. How long do you expect that the conversion of the lumber into money is going to take?

Mr. MERITT. It will take four or five years to dispose of the timber that we have already sold.

The CHAIRMAN. Is there actual work going on up there now?

Mr. MERITT. Yes, sir.

The CHAIRMAN. How long has that been going on?

Mr. MERITT. About two years, I should say. I will furnish to the committee the contract which will show the date and the terms of sale.

The CHAIRMAN. There is just one contract with one concern?

Mr. MERITT. Yes, sir.

Mr. ELSTON. What is done with the proceeds?

Mr. MERITT. Deposited to the credit of the Indians.

Mr. DALLINGER. Has any of that been divided?

Mr. MERITT. Part of it has been divided.

The CHAIRMAN. Is there any competition in the letting of this contract?

Mr. MERITT. Yes, sir; we received bids on that timber. The contract was dated December 11, 1917, and the contract for the sale of the timber is with the International Lumber Co. of Minnesota, and covers the sale of approximately 72,000,000 feet of timber on the Red Lake Reservation.

The CHAIRMAN. Then the contract was made in 1907, but the actual work was not begun until 1918, or thereabouts?

Mr. MERITT. 1917.

The CHAIRMAN. Ten years after the contract was made.

Mr. MERITT. Not at all. I stated that the contract was dated December 11, 1917. It was estimated that 67 per cent of the timber was white pine, and the bid was \$14.10 per thousand.

Mr. ELSTON. May I ask what that \$14.10 means? Is that in the log?

Mr. MERITT. That is as it stands on the land.

Mr. ELSTON. Stumpage?

Mr. MERITT. Yes. We considered that a very high price.

The CHAIRMAN. Previous to 1917 it would have been an exceedingly high price.

Mr. MERITT. That \$14.10 is a very good price indeed. That was obtained, and about 27 per cent of it was Norway pine, for which bids of \$10.25 were received.

The CHAIRMAN. Who checks the quantity of lumber taken off?

Mr. MERITT. We have checkers representing the Indians and the Indian Bureau. The total receipts on this contract deposited by the superintendent February 21, 1920, were \$487,039.77. This quantity of timber covered by this contract and already out will bring something over \$500,000. There is unsold timber on the reservation of a value estimated at about \$500,000.

Mr. DALLINGER. Does your bureau have experts to check up on the stumpage?

Mr. MERITT. Yes, sir.

The CHAIRMAN. What check do you have on the checkers?

Mr. MERITT. We have a check on the checkers. We send our chief supervisor of forests to the reservation to supervise the conditions and keep in touch with the work.

The CHAIRMAN. How frequently in the proceeding of that work do you send some one there to check up these checkers? Are the checkers under bond?

Mr. MERITT. We have the superintendent on the reservation, who gives supervision of the matter in addition to the regular checkers, and then we send occasionally the chief supervisor of forests.

The CHAIRMAN. Then, in addition to that, you have cruisers in the whole territory so that you can check and see how the stumpage comes out in comparison with the cruise?

Mr. MERITT. We have the entire timber area cruised and we know almost exactly the amount of stumpage.

Mr. DALLINGER. Do they cut everything or only trees of a certain size?

Mr. MERITT. They cut trees of a certain size.

Mr. ELSTON. I would like to refer to the proposition of how well you are protecting yourself against possible reversal of the bureau's interpretation of the act of 1895 with regard to the title of the Red Lake Reservation. Do you feel that you are taking any chances whatever in making sales there and distributions on the theory that the Red Lake Indians own the whole of the 700,000 acres, and do you feel that there is nothing that you could do that would provide against the possible contingency of your being wrong?

Mr. MERITT. We could practically discontinue all activity on the reservation until this legislation was passed by Congress.

Mr. ELSTON. Would there be some kind of an agreement by which you could salvage yourself if you were wrong or keep the situation in such a way that if you make payments erroneously under your theory, which may prove wrong, that you can recoup yourselves out of the remaining property of the persons to whom you made erroneous payments? Is there any possibility of that? Of course, you are

assuming in everything you are doing that this thing is absolutely settled and that there is no possible doubt, in view of this pending litigation. It shows that you have no question whatever about the issue or otherwise you could not proceed on the theory that you are making all these payments without any reservation whatever to recoup yourselves if you are wrong. I think I can not overstate that at all.

Mr. RANDALL. As I understand it, the attitude of the Bureau of Indian Affairs irrespective of litigation is that they are compelled by the law existing to go ahead and administer this fund as the law reads, and if the United States is stuck by the litigation, all right.

Mr. ELSTON. That is the explanation, I think. But what I want to inquire is whether or not they feel that in view of the fact that there might be some mistake and that Congress having passed the legislation largely on the implied recommendation of the bureau is following erroneously a start that the bureau gave them, and that if the bureau thinks it is running Congress and the people into a possible hole that they might suggest something by which we can recoup ourselves if we are wrong.

Mr. RANDALL. I agree with your suggestion entirely. That is about what you might gather from what Mr. Meritt stated.

Mr. ELSTON. I think it is.

Mr. MERITT. I think that we can not pay out hereafter the proceeds from the sale of this timber without further legislative authority of Congress, and, inasmuch as the jurisdictional bill is now pending before Congress, our attitude as administrative officers would be to conserve the proceeds from the sale of this timber so far as practicable and above what is absolutely necessary to administer the affairs of those Indians and meet their most urgent needs so that if that judgment is against the Red Lake Indians the funds would be conserved to meet it.

Mr. RANDALL. May I ask you how much remains of the \$480,000 that has been derived from the sale of this timber?

Mr. MERITT. The Red Lake Indians have \$410,000 on deposit in the Treasury to their credit carried as "Red Lake Forest 4 per cent fund."

The CHAIRMAN. Without casting any reflection whatever on the checkers, I would like to know who pays the checkers?

Mr. MERITT. The superintendent.

The CHAIRMAN. Can you state what the salaries of these checkers are?

Mr. MERITT. The following is a list of these employees and their salaries:

Forestry employees, Red Lake Reservation, as of Mar. 1, 1920.

William Heritage, deputy supervisor of forests, check scaler.....	\$1,500
John A. Jackson, scaler.....	1,080
Alexander R. Garrow, scaler.....	1,080
N. D. Rodman, scaler.....	1,080

The CHAIRMAN. They are in no way employed or paid by the company? It is taken off the lumber?

Mr. MERITT. The company probably has checkers of its own, but we have separate checkers.

The CHAIRMAN. It is a check in the interest of the Indians, and the checkers are wholly in the pay of the bureau?

Mr. MERITT. Yes, sir. It should be borne in mind that there is now in the Treasury of the United States more than \$6,000,000 to the credit of the Chippewa Indians of Minnesota, and the Red Lake Indians have a share in that money, and any judgment that might be rendered against the Red Lake Indians could undoubtedly be recovered from the property and the money interests of the Red Lake Indians, and the Federal Government would not likely be called upon to meet any of this judgment in the event that the judgment should be rendered against the Red Lake Indians, which we consider is a remote possibility.

Mr. DALLINGER. Is that all based on information from Mr. Mahaffie, the solicitor of the department?

Mr. MERITT. No, sir.

The CHAIRMAN. In the checking up of this timber, when it leaves the hands of the bureau and goes into the hands of the company, just who does the checking? I do not mean the names of the men, but do the bureau's checkers and lumbermen's checkers work together or does the lumbermen's checker check it first and then that checking is done again by the bureau?

Mr. DALLINGER. When is it done, and at what stage?

Mr. MERITT. We have in the room a Red Lake Indian who was formerly employed on this work. I think that probably he could give you the exact information that you want.

The CHAIRMAN. All I am interested in is, there was so much fraud apparently connected with the conversion of the property of the White Earth Indians that we want to be sure that nothing of that sort is coming in at this time or can get in with regard to the distribution of this property.

Mr. MERITT. You may rest assured that the interests of the Red Lake Indians are being very carefully protected by the Indian Bureau. I believe all the Indians here will concede that.

The CHAIRMAN. Will the gentleman tell us just how the checking is done?

Mr. MERITT. Mr. Head is a Red Lake Indian who was employed on that work.

STATEMENT OF MR. NATHAN J. HEAD, MEMBER OF RED LAKE BAND, CHIPPEWA INDIANS.

The CHAIRMAN. In your own way just tell us how you turn over this lumber from the bureau or the Government to this lumber company and how is it charged up to them and checked out?

Mr. HEAD. It is authorized by act of Congress that all of the timber be cut and scaled under the acts adopted by the Bureau of Indian Affairs.

After the log is cut and it is numbered, a series of numbers from 1 up to 10,000, it is entered in the scale book, which corresponds with the number on the log, and the checker appointed by the Forest Bureau and the Indian Bureau goes in and inspects the scales and checks the number, say, a thousand logs, to the month, or probably less than that. The number of logs will amount to four or five million, possibly ten million feet in the season's cut. He checks every week or 10

days here and there. He looks over the scaler's book and checks it. If there is a difference he goes over it and checks where the mistake is made.

Mr. ELSTON. The scaler is an Indian Bureau official, and he makes an estimate of the number of feet in each log. Is that what you mean by scaling?

Mr. HEAD. Yes, sir.

Mr. MERITT. It is not estimated. They apply the scale rule that gives the number of feet in a log of a certain size.

Mr. ELSTON. That calls for the size of logs, a personal inspection of every log and the application of the scale figures which gives the number of feet.

Mr. DALLINGER. When is this done? For instance, the logs are cut by the company and then are they drawn on sleds to some places?

Mr. HEAD. When the logs are cut they are hauled into the skidway on the roadside and he rides over to scale the logs.

Mr. DALLINGER. Each pile of logs is brought from where they are cut. Each pile is scaled; is that right?

Mr. HEAD. That is right. Then, of course, the contractor has the right to go over the Government scaler's books. He has that right and he is looking out for it.

The CHAIRMAN. You are a Red Lake Indian?

Mr. HEAD. I am.

The CHAIRMAN. Are you in the employ of the Government?

Mr. HEAD. Yes, sir.

The CHAIRMAN. You are in no way employed by the lumber company?

Mr. HEAD. No, sir.

The CHAIRMAN. You are there looking out for the interests of the Red Lake band?

Mr. HEAD. As well as myself.

The CHAIRMAN. You are satisfied that the checking is honestly done?

Mr. HEAD. Yes, sir. That is about the only way to properly protect the sellers, who are the Indians.

Mr. MERITT. In the statement of Mr. Ballinger there were some remarks about the school system in the Chippewa country. Criticism was made of the Twin Lake Day School on the White Earth Reservation. My information is, and the records of the Indian Office show, that we have one teacher at a salary of \$720 a year and one house-keeper at a salary of \$300 a year employed at the Twin Lake Day School on the White Earth Reservation. The records also show that that school has an average attendance of 33 for the current year and an enrollment of 46. Compared with the Indian schools throughout the country, I think that is a very satisfactory showing and that the cost is not excessive.

The CHAIRMAN. Is that the one he referred to as having seven pupils at an expense of \$8,000?

Mr. MERITT. He criticized this school, and this is the information that the records of our office show.

The CHAIRMAN. Is that the one who had the Government school in one end and the public school in the other?

Mr. MERITT. Yes, sir. There was also some comment made about the Government furnishing midday meals to those Indian children.

This is the first time that I have ever heard the Indian Bureau criticized for furnishing meals to Indian children. We have been complimented on our work along that line. I believe that if some of the white schools would follow our example it would be helpful to the children because it is shown that there are a great many white children attending the public schools that are undernourished. When it is remembered that these little Indian children come from homes a considerable distance away and the climate is exceedingly cold during the winter months, it is entirely the proper thing to furnish them with the midday meals.

The CHAIRMAN. You do not feed anyone at these schools who is not regularly in attendance at the schools?

Mr. MERITT. No, sir.

The CHAIRMAN. What would be the average age, if you can tell us, of the average attendance of 36?

Mr. MERITT. I have not that information, but I think it would average from 6 to 16 years of age.

Mr. RANDALL. Do you happen to know how near the nearest public school is to this Indian school?

The CHAIRMAN. There is one right in the same building.

Mr. MERITT. We are ready to turn over these children to the public schools any time they will furnish facilities for educating these Indian children. It is our policy to get Indian children into public schools wherever it is possible.

The CHAIRMAN. It is claimed by reason of the fact that the Government runs a school in one end of the building and the State runs a school in the other end, and due to the fact that the Government furnishes a meal at noon, that it is competition which the State can not overcome, and, therefore, the larger number go to the Indian day school.

Mr. DALLINGER. Mr. Ballinger brought out the fact that the instruction of the State schools was infinitely superior to the instruction given by the Government.

Mr. MERITT. That I deny, because I think that the instruction furnished in the Indian schools is equal, if not superior, to the public schools of the country. However, it is our policy to get Indian children in public schools wherever it is possible, and we have now more than 30,000 Indian children in the public schools throughout the country. We have requested Congress in the last few years to very greatly increase the appropriation for paying tuition of Indian children in public schools.

The CHAIRMAN. Which you would not have very much trouble to get, in the judgment of the chairman, if you managed the affairs of the day and boarding schools on the reservations in such a way that you did not furnish opportunity for so large a percentage that you can not provide for.

Mr. MERITT. Also in connection with the alleged extravagant expenditures of the Chippewa funds, I wish to call the attention of the committee to what we are doing for the Chippewa Indians along hospital lines. We have four hospitals among the Chippewa Indians. We have one hospital at Fond du Lac and during the year 1919 there were admitted to the hospital 200 patients at a cost of \$7,500. At the Leech Lake Agency, Minn., we have a hospital where there were admitted 428 Chippewa Indians at a cost of \$2,085.76. At the Red

Lake Reservation, Minn., there is a hospital where there were admitted 243 Indians at a cost of \$4,602. At White Earth we have a hospital where there were admitted during the year 255 Indians at a cost of \$8,290.19.

I believe that every one will concede that there is good work being done for the Chippewa Indians at a reasonable cost.

The CHAIRMAN. The time for recess having arrived, if there is no objection we will adjourn until 10 o'clock to-morrow morning.

(Thereupon, at 1 o'clock p. m., the committee adjourned to meet again at 10 o'clock a. m., Thursday, March 11, 1920.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Thursday, March 11, 1920.

The committee met at 10.30 o'clock a. m., Hon. Homer P. Snyder (chairman) presiding.

The CHAIRMAN. The committee will come to order and we will resume the hearing where we left off last night. Mr. Meritt, you can proceed in your own way.

Mr. MERITT. Mr. Chairman and gentlemen of the committee, I have been in an off-hand and extemporaneous way endeavoring to answer some of the misleading statements in the very carefully prepared brief of the attorney for the general council of the Chippewa Indians. I have not been able to answer all of these misleading statements because it would require too much time, but I have up to this point endeavored to answer some of the most important of the misleading and exaggerated statements. I shall finish my remarks in a very short while. There are only a few remaining items which I wish to bring to the attention of the committee.

Mr. Ballinger, the attorney, in his statement referred to the long time it took Mr. Edward L. Rogers to get the money of his children, after he had been appointed their guardian. I believe the statement of Mr. Ballinger was to the effect that it took one or two years, and he called on Mr. Rogers to confirm that statement, and Mr. Rogers answered that it took about six months. The facts are that Mr. Edward L. Rogers was appointed guardian on March 27, 1918, and the balance of the funds belonging to his children was mailed by the superintendent to Mr. Rogers on April 5, 1918, less than 10 days after he was appointed guardian. This is only a sample of the exaggerated statements that are made before this committee regarding Indian affairs. I shall not take time to answer all of these statements and am simply answering this one as an example of the statements that are brought to Members of Congress with a desire to prejudice the minds of the Members of Congress against officials of the Indian Service who are endeavoring to fulfill their duties to the best of their ability, duties that are exceedingly difficult to administer. Covering a period of nearly 100 years Congress has enacted probably 1,500 separate laws covering Indian matters, and there has been entered into between 200 and 300 treaties or agreements, and it is an exceedingly difficult matter to administer all of these laws and meet the requirements of all of these agreements and treaties. It should also be borne in mind that the Indian Service has supervision over a territory as large as

New York and the New England States, combined and has under its supervision at this time approximately 225,000 Indians, a large number of whom are incompetent to handle their own affairs. It should also be borne in mind that these Indians live in 26 different States and are scattered over a very wide area.

The CHAIRMAN. Mr. Meritt, I want to try to clear up one thing right there, as a matter of information. When you say you have in charge 225,000 Indians, does that mean competent and incompetent Indians? Those who have been declared competent and allotted, are they under your supervision?

Mr. MERITT. There are over 300,000 Indians in the United States. The Indian Bureau does not now have jurisdiction over a large number of Indians in the United States at this time because they have been given patents in fee and are not under the jurisdiction of the Indian Bureau because Congress has passed legislation removing their restrictions.

The CHAIRMAN. These 225,000 you speak of, these are all incompetent Indians?

Mr. MERITT. Not all of them are incompetents.

The CHAIRMAN. But so far as the bureau is concerned they are under your supervision?

Mr. MERITT. Yes, sir; under the supervision of the Indian Bureau.

The CHAIRMAN. Then the difference between that number and the 300,000 is made up of Indians who have been declared competent, or have gotten away from the service in some way or another, but many of them are still doing business with the bureau?

Mr. MERITT. Yes, sir.

The CHAIRMAN. So that we can safely say that the bureau to-day is only directly in charge of 225,000 Indians?

Mr. MERITT. That is approximately correct, with this reservation, that some of these Indians have received patents in fee——

The CHAIRMAN. You are speaking of some of this 225,000?

Mr. MERITT. Some of the 100,000 who have gotten out from under the jurisdiction of the bureau. These Indians still have an interest in the undivided property and when that property is sold they are entitled to a share of the proceeds.

The CHAIRMAN. And the only control you have over that body is through your forced relations in the care of whatever interest they may have in some tribal fund that could not be distributed when they were declared competent?

Mr. MERITT. Yes, sir; take for example, Mr. Rogers here. He is an absolutely competent Indian, and we do not want jurisdiction over Indians of that class. However, he has received his patent in fee, but still has an interest in the Chippewa tribal funds now in the Treasury of the United States. We would like to pro rate this fund, pay him his share, and let him go his way the same as any other citizen of the United States, but under the laws of Congress we can not pro rate these funds at this time as we would like to do, reserving only sufficient to carry on the schools, so that these Chippewa Indians who are competent might get their share and no longer have any interest in any tribal moneys.

The CHAIRMAN. What do you allege as the reason Congress has not been willing to give you legislation which will permit you to do that very thing?

Mr. MERITT. For the reasons discussed in this hearing previously, The Nelson Act of 1889 provides that part of the Chippewa fund is to be reserved for a period of 50 years. Some people contend that if we pay out this money at this time that later on there will be a claim against the Government. My contention is that Congress has absolute authority to pay out these moneys. It is absurd to keep this money in the Treasury for a period of 50 years when the time is now ripe for the competent Indians to have the benefit of it.

The CHAIRMAN. Do you understand that this proposed legislation will permit you to do that very thing?

Mr. MERITT. This proposed legislation will authorize a per capita payment of \$300 to each Chippewa Indian. Those who are competent will receive this money in cash, without supervision. When there is sufficient money in the Treasury to the credit of the Chippewa Indians, another \$300 per capita distribution will be made, if this legislation is passed.

The CHAIRMAN. What will happen to the incompetent Indians?

Mr. MERITT. Their money will be paid to the parents, if appointed guardian, and they will be responsible to the courts. If the parents are not appointed guardians, the Interior Department—that is, the Indian Bureau—will retain the money under its supervision.

The CHAIRMAN. That is a matter provided for in this legislation?

Mr. MERITT. Yes, sir; but it does not go as far as I think it should. I think we should reserve only enough of that money to continue the schools and pay out the balance to the Indians individually; paying in cash to the competent Indians and reserving in cash the money due the incompetent Indians.

The CHAIRMAN. It is claimed that there are 12,000 Chippewa Indians. What percentage of that 12,000 are incompetent?

Mr. MERITT. About 5,000 of the Chippewa Indians are no longer under the Indian Office so far as lands are concerned.

The CHAIRMAN. Are those 5,000 Indians made up of Indians who have largely gotten away from the Chippewa Reservation and gone out into the world for themselves, or is part of this 7,000 left up there?

Mr. MERITT. That 5,000 refers to Indians to whom patents have been issued and who were included in the provisions of the Clapp amendment in 1906.

The CHAIRMAN. Then, according to your figures, there are about 7,000 incompetents.

Mr. MERITT. There are Indians who have not yet received patents who are competent. For example, on the Red Lake Reservation; but we have not allotted the Red Lake Reservation and are not in position to issue patents at this time.

The CHAIRMAN. When I use the word "incompetent," I use it on the basis that they have not been declared competent by the bureau. Now, one further question; if this legislation is enacted, what period of time do you think it would take to declare these incompetents competent? In that question I am not including a certain percentage who can never be declared competent.

Mr. MERITT. I should say within a period of two years after the enactment of this legislation, those Indians who are competent could be declared competent, except the Red Lake Indians, and, as I

have stated before, it will take a little longer to handle the Red Lake situation.

The CHAIRMAN. That is due to the difficulties in getting the property ready?

Mr. MERITT. Due to the fact that the reservation needs to be drained and that we need to sell the timber there so that there can be an approximately equitable division.

The CHAIRMAN. You have answered that in your own way but have not given me the information I am trying to get. What I am trying to bring out is how long it would take to get that per cent of incompetents declared competent and the approximate percentage who will come within that competent class.

Mr. MERITT. Out of the 12,000 Chippewa Indians, I would say that approximately two-thirds of the adult Indians would come within the competent class.

Mr. KELLY. Does that mean there are 4,000 who would never be declared competent?

Mr. MERITT. No, sir; we would not declare a minor child competent as long as it retained its minority.

Mr. KELLY. How many of that number you say would not be declared competent, would never be capable of being declared competent?

Mr. MERITT. That would only apply to the old, full-blood Indians and I think it would be unwise and unjust to issue patents to the old, uneducated, full-blood Chippewa Indians.

Mr. KELLY. Approximately how many do you think would always be under the control of the bureau for their own protection?

Mr. MERITT. I would say approximately one-fifth of the adult Indians of the Chippewa Tribe would always need the protection of the bureau.

The CHAIRMAN. Now, Mr. Meritt, when you declare the parents of children competent, under the present rule, that still leaves the children as incompetents and anything allotted is still held by the bureau for these incompetents?

Mr. MERITT. Yes, sir.

The CHAIRMAN. Why would it not be a safe proposition when you declare the parents competent to turn over to them, the same as you would to a white man in full citizenship, all the property which belongs to the family and let the parents care for the transfer of the property to the children? Would that not be a fair proposition?

Mr. MERITT. We have taken the position that the money belonging to the children of competent Indians, provided these competent parents will have themselves appointed as guardians of the children, should be turned over to them but we have not gone so far as to say we would turn over the allotments of the children to the parents.

The CHAIRMAN. Here is the point, if we went that far we would then be able to disassociate the bureau from future transactions with that family.

Mr. MERITT. I do not believe, Mr. Chairman, that we have reached the point in Indian development when that can be safely done.

The CHAIRMAN. It can not be done perhaps as safely as you would desire; however, you would turn the same thing over to a white man. It strikes me that when you go so far as to declare the parents competent you do not fulfill all requirements until you turn over to

then everything that belongs to the family. This may be revolutionary with regard to the policy of the bureau, but it strikes me that it is the only way we will ever be able to terminate the activities of the bureau with regard to any individual who has Indian blood in him at all.

Mr. MERITT. I am willing to go that far with the money of the minor children, the Indian Bureau is willing to go that far, but I believe your suggestion might prove somewhat radical——

The CHAIRMAN. A good many of my suggestions have been deemed impracticable, but nobody has stated that they were not sane.

Mr. KELLY. What would be the danger in that policy?

Mr. SINCLAIR. The real estate perhaps.

Mr. MERITT. The average Indian mind, in regard to the property of minor children, is different from that of the average white man. I mean this as no criticism against the Indian, but simply to state what has been the experience in handling Indian affairs. A great many Indians look upon the property of their children as being their own property and feel that they should do with that property exactly as they see fit. They do not look ahead to the time when the child will become of age and will need this property for its own use. A large number of Indians look more to the need of the present day than they do for any need that will arise in the future; they are not disposed to accumulate property like the white man. Now, of course, there are a great many exceptions to this rule. We have in this room Indian men who have accumulated considerable property, but they are the exceptions.

The CHAIRMAN. Mr. Meritt, allow me to break in right there. You must admit that as a whole the Indians have had few opportunities on account of the restrictions surrounding them. We can not tell whether the Indians, as a whole, if they were permitted to have the opportunity of trying to accumulate anything in the interest of their families, whether they would succeed or not. In the five years that I have had something to do with Indian affairs, I have seen a good many of them and they do not impress me along the line that you claim experience has taught you. I am one of those who believe that a man can do twice as much with his own property, even though he has only half as much knowledge, as some one else will do with it; he will handle his own affairs better than anyone else. That is my opinion, whether it is an Indian or a white man.

Mr. MERITT. I agree with you absolutely and we are doing that very thing for the Indians; we are turning them loose very rapidly indeed, and during the last three years we have turned loose more Indians than during the previous 10 years, and we will continue to pursue that policy at a very rapid rate; but notwithstanding the fact that we have turned loose a great many of the Indians who are alleged to be competent, the experience of the Indian Bureau is that a large percentage of these Indians who are supposed to be competent dispose of their lands and lose their property within a very short period after the restrictions have been removed.

The CHAIRMAN. Mr. Meritt, approximately how many Indians, during your experience in the department, whom you have once declared competent have subsequently been declared incompetent?

Mr. MERITT. Very few; when we issue a patent in fee to an Indian, that man is no longer under the jurisdiction of the Indian Bureau

and we do not attempt to recover that land and assume jurisdiction over it. There have been some cases where exceptions have been made to that rule, but the general policy is that when an Indian is given a patent in fee we no longer attempt to have any jurisdiction over him.

The CHAIRMAN. I appreciate that we are getting pretty far afield on this proposition and I have in my own experience heard only of one or two cases where an Indian had been declared competent and was afterwards declared incompetent, and I believe that situation was brought about by a band of robbers, land robbers, in the State who were trying to get what the Indian had, and that might happen to any one, either Indian or white man. As a whole, however, have not the Indians who have been declared competent done about as well as the average foreigner who comes into this country, after he has been declared competent? I am judging now from the Indians I have seen and the information I have gotten in these investigations.

Mr. MERITT. I would say that they have.

The CHAIRMAN. If that is so why can we not give them a little more latitude and by so doing relieve the Government, as a government, of this eternal guardianship on unborn children? I want to make this statement: I had no knowledge whatever of Indian affairs five years ago but the knowledge I have gained in five years in these committee hearings leads me to believe that the complications grow considerably more intensive and the difficulties concerning the handling of the property of the Indians are multiplied instead of decreased all the time and if we keep on with this mass of laws we are putting over every year, adding to them all the time, I do not see where it is going to end. The further I go into it the more complicated the situation looks, and I have come almost to the conclusion that if the whole business of taking care of the Indians was done away with entirely and their property turned over to them as bands or tribes and they had permission to distribute that property among themselves and handle their own affairs, they would be better off and the country would be better off. I will not say that that is a settled conclusion with me but I am getting very nearly to that point and therefore I will be very liberal in this legislation if I can be shown that it will be the means of turning as many as possible of these 12,000 Indians over to the State in the same status as any other white citizens, and give them their property to do with as they please.

Mr. MERITT. In answer to that statement I want to say that the Indians of the United States control property to the value of about a billion dollars. If the legislation you have suggested were enacted by Congress, these Indians would, within a period of six months, have disposed of at least one-half of their property.

The CHAIRMAN. Of course that is only an observation on your part.

Mr. MERITT. It is observation based upon experience under the legislation enacted by Congress heretofore.

The CHAIRMAN. I do not say that is a final conclusion with me.

Mr. MERITT. Congress enacted the Clapp Act removing from the jurisdiction of the Indian Bureau the property of all adult Indians of less than full blood and as a result of that legislation the mixed blood Indians on the White Earth Reservation, who are supposed to be

among the most competent Indians in the United States, lost at least 80 per cent of their property.

The CHAIRMAN. How long ago was that?

Mr. MERITT. That was in 1906.

The CHAIRMAN. Well we have made some headway with the education of the Indians since then, I hope, and a great many of them are in a better frame of mind to care for their affairs than they then were.

Mr. MERITT. You see here only the competent ones, you do not see the full-blood Indians back in the tepees, who are not capable of looking after their own interests. You see the most competent Indians in the United States here in Washington as a rule. We had before this committee, recently during your absence, full-blood Chippewa Indians who were incapable of presenting intelligently their views on any proposition.

The CHAIRMAN. You do not mean that those who were here would be a fair illustration of the best minds of that tribe?

Mr. MERITT. I mean that those who are here now are an illustration of the most advanced Indians in the United States.

The CHAIRMAN. You can go out in any tribe, white, black or yellow, and bring in an element which will prove to the committee instantly that they are not competent; but you could also go into that same tribe and select men who are capable of handling their own affairs and the affairs of their people.

Mr. KELLY. It strikes me as an observation that the Assistant Indian Commissioner takes it that it is a very fine thing to teach these Indians to swim, but at the same time to say to them that they must not go near the water. There came to my personal notice the case of a young Indian lad who had been in the Army; served in France, came back finally and was recommended for an allotment by the superintendent but could not get it out there and came on to Washington to see about getting it. He accidentally came into my office and I got interested in him and his case and sent him, along with a white man from my office, whom I insisted should accompany him, to the Indian Bureau and at the Indian Bureau he was told that this white man's presence made it very suspicious and therefore the Indian boy would have to go back to the reservation and they would write him there.

That was the best he could do. He went back and after three weeks had gone by he wrote me that he could not get his patent because the Indian Bureau had informed him that it would be necessary to make a thorough investigation to see whether this white man, who had gone to the Indian Bureau with this boy at my request, was not attempting to defraud him of his land. This Indian boy is perfectly capable of handling his own affairs, but it seems to me that the policy of the Indian Bureau is to prevent them doing so.

Mr. MERITT. I remember that specific case, Mr. Chairman. This Indian was from the Yankton Reservation in South Dakota and came to Washington for a patent. He was accompanied by a white man who came all the way from South Dakota with him to help him get his patent in fee. We have a rule in the Indian Bureau not to issue patents in fee to Indians here in Washington and the reason for that rule is because our experience shows that if we issue patents in fee to Indians here in Washington they frequently dispose of their lands before they get back to the reservation, and sometimes at a very inadequate price. For instance, only recently we had an Indian

get a patent in fee to a tract of land worth between ten and twelve thousand dollars and that Indian sold that land to a man who had persuaded him to get the patent, for less than \$4,000 and that Indian has since discovered what his good white friend has done to him. That is the reason for this rule not to issue patents in fee to Indians here in Washington.

Mr. KELLY. Then it is the policy of the bureau to put out a protecting hand and never trust them, never allow them to know responsibility?

Mr. MERITT. We are now issuing patents far more rapidly than ever before, but on that reservation you refer to, where we have issued a great many patents in fee, the Indians on that reservation who have received patents in fee, about 90 per cent of them are now without lands.

Mr. KELLY. Defrauded out of their lands?

Mr. MERITT. Sold their lands and been defrauded out of them and in a short time will be absolutely dependent upon their children for homes.

Mr. KELLY. As I remember, there were about six or seven thousand Indians declared competent in the last few years, yet there are Indians coming on faster than ever and these Indians will of course share in this property.

Mr. MERITT. The Indians coming on now will not share in the property of these reservations where the lands have been allotted and the rolls closed. Congress has recently enacted legislation which will close the rolls of these reservations and the money will be distributed and, therefore, the children who are born now will not share in that property. For example, no children born since 1906 have been enrolled on the Five Civilized Tribe rolls and no children born since the Osage Reservation was allotted in 1906 have been added to the rolls; these children do not share in the oil properties or any distribution of lands or money.

The CHAIRMAN. Except as they share through their parents' ownership?

Mr. MERITT. Yes, sir; therefore the statement you make is not in accordance with the practice of the bureau or legislation enacted by Congress. Now, on a reservation where property has not been allotted and the rolls have not been closed——

The CHAIRMAN. How does this legislation affect a situation like that?

Mr. MERITT. This legislation here will, except as to the Red Lake Indians, enable us to have rolls of all the Chippewa Indians and to make this distribution among them.

The CHAIRMAN. Including the minors and unborn?

Mr. MERITT. Yes, sir. It is our desire on all these allotted reservations to close the rolls and distribute the funds as soon as possible.

The CHAIRMAN. Let us proceed, if you have anything further. I would call your attention to the fact that I do not remember your having cleared up the Fond du Lac school matter. There were some very broad statements made and I would like to hear your statement on that.

Mr. MERITT. Mr. Chairman, Mr. Ballinger referred to the fact that Chippewa funds had been appropriated by Congress for administrative purposes in the Chippewa country and stated that he believed

that was an illegal action and that the Chippewa Indians would have a claim against the Government for these funds appropriated by Congress. The legislation on this subject has been carried in the bill since 1912, the amount appropriated differing from year to year. It reads: "The Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, at his discretion, the sum of \$60,000, or so much thereof as may be necessary of the principal sum on deposit to the credit of the Chippewa Indians in the State of Minnesota, arising under section 7 of the act of January 14, 1889, entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,' and to use the same for the purpose of promoting civilization and self-support among the said Indians in manner and for purposes provided for in said act."

Certain representatives of the Chippewa Indians of Minnesota have endeavored to handicap the department in the administration of their affairs for the benefit of the great mass of the Chippewa Indians. Some time ago Mr. Webster Ballinger, as attorney for certain of the Chippewa Indians of Minnesota, endeavored to prevent the department from using moneys carried in one of the Indian appropriation acts, which was extended by joint resolution of Congress when one year the Indian appropriation bill failed to be enacted.

This litigation was taken into the Supreme Court of the District of Columbia for the purpose of enjoining the Secretary of the Interior, the Commissioner of Indian Affairs, and the Treasurer of the United States from expending funds appropriated by Congress for 1916, by joint resolution of March 4, 1915 (38 Stats. L., 1228). Under date of December 9, 1915, the Supreme Court of the District of Columbia denied the injunction sought by the plaintiffs and dismissed the bill. The case was then appealed to the Court of Appeals of the District of Columbia, and under date of April 22, 1916, that court reversed the decision of the lower court, whereupon an appeal was taken to the Supreme Court of the United States. A decision was handed down in this case under date of March 4, 1918, and an abstract from such decision informally furnished, reads as follows:

It seems clear that "civilization and self-support" among the Indians can not be promoted effectively by disconnected efforts, but must be accomplished, if at all, by definite, permanent plans operating through many years. And in view of the long-continued practice of Congress to provide funds for such continuous efforts by annual appropriations, the circumstances under which the joint resolution became law, and the studied incorporation therein of the language of former appropriation acts, we think the purpose was to authorize expenditures of \$160,000 during 1916, as had been done for 1915. A different construction might have occasioned disruption of well-ordered arrangements for advancing the Nation's wards to the great detriment of all concerned; and to such unfortunate consequences experienced legislators probably were not oblivious.

This decision reversed the decision of the court of appeals referred to and affirmed the decision of the lower court which denied the injunction. There is authority of law for all that Congress has heretofore done in regard to making these appropriations out of these trust funds for the support and civilization of these Indians.

Mr. KELLY. Did that decision you have just cited go into the question of the authority of Congress on that appropriation?

Mr. MERITT. The question in that case was whether or not the joint resolution of March 4, 1915, extended the provisions of the pre-

vious act so far as it related to the Chippewa funds. I have quoted the language as bearing on this proposition showing the mind of Congress relative to the appropriation and use of these funds belonging to the Chippewas.

Mr. KELLY. There is evidently a difference of opinion as to whether the joint resolution is illegal or whether Congress has authority to make appropriations from these funds.

Mr. MERITT. I do not want it understood that I am attempting to have this committee believe that the Supreme Court has passed on this question directly, but we would be entirely satisfied to have the court pass on it at any time. However, there is specific authority in the act of January 14, 1889 (25 Stats., p. 645). In section 7 of that act is this provision:

Provided, That Congress may, in its discretion, from time to time, during the said period of 50 years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding 5 per centum thereof.

Now, Mr. Chairman, we have always kept our estimates within that 5 per cent limitation and I have brought this matter out to show to the committee that Congress has the specific authority to appropriate these Chippewa funds for administrative purposes as long as they keep within the 5 per cent limitation.

Mr. Chairman, it has been contended by some interested parties that Congress is without authority to distribute the Chippewa funds now in the Treasury of the United States to the credit of the Chippewa Tribe. They have more than \$6,000,000 in the Treasury at this time. Congress has heretofore in an appropriation act in recent years, I believe in the appropriation act of 1916, made such appropriation and one-quarter of these funds were actually distributed to the Chippewa Indians. I approve of that action by Congress; I think all of these funds, except reserving enough for school purposes, should be distributed. I believe that Congress has ample authority under its powers and under the decisions of the Supreme Court to distribute all of these funds; and in order to make this matter perfectly clear to the committee, I am going to read part of the syllabus of the case known as *Lone Wolf v. Hitchcock*, One hundred and eighty-seventh United States Reports, page 553, as follows:

The provisions in article 12 of the Medicine Lodge treaty of 1867 within the Kiowa and Comanche Indians to the effect that no treaty for the cession of any part of the reservation therein described, which may be held in common, shall be of any force or validity as against the Indians unless executed and signed by at least three-fourths of all the adult male Indians occupying the same, can not be adjudged to materially limit and qualify the controlling authority of Congress in respect to the care and protection of the Indians and to deprive Congress, in a possible emergency, when the necessity might be urgent for a partition and disposal of the tribal lands, of all power to act if the assent of three-fourths of all the male Indians could not be obtained. Congress has always exercised plenary authority over the tribal relations of the Indians and the power has always been deemed a political one not subject to be controlled by the courts.

In view of the legislative power possessed by Congress over treaties with the Indians, and Indian tribal property, even if a subsequent agreement or treaty purporting to be signed by three-fourths of all the male Indians was not signed and amendments to such subsequent treaty were not submitted to the Indians, as all these matters were solely within the domain of the legislative authority, the action of Congress is conclusive upon the courts.

Reading further from this decision the last paragraph of the syllabus reads:

As the act of June 6, 1900, as to the disposition of these lands was enacted at a time when the tribal relations between the confederated tribes of the Kiowas, Comanches, and Apaches still existed, and that statute and the statutes supplementary thereto, dealt with the disposition of tribal property and purported to give an adequate consideration for the surplus lands not allotted among the Indians or reserved for their benefit, such legislation was constitutional and this court will presume that Congress acted in perfect good faith and exercised its best judgment in the premises, and as Congress possessed full power in the matter, the judiciary can not question or inquire into the motives which prompted the enactment of such legislation.

Now, Mr. Chairman and gentlemen of the committee, I have quoted that decision and placed it in the record so that this matter may be definitely settled that Congress has authority to legislate regarding Indian tribal matters; further in the case of *Cherokee Nation v. Hitchcock*, One hundred and eighty-seventh United States, 294, it was held that full administrative power was possessed by Congress over Indian tribal property; and in effect the action of Congress now complained of was but an exercise of such power, a mere change in the form of investment of Indian tribal property, the property of those who, as we have held, were in substantial effect the wards of the Government. We must presume that Congress acted in perfect good faith in the dealings with the Indians of which complaint is made. In any event as Congress possessed full power in the matter the judiciary can not question or inquire into the motives which prompted the enactment of this legislation.

If injury were occasioned, which we do not wish to be understood as implying, by the use made by Congress of its power, relief must be sought by an appeal to that body for redress and not to the courts. The legislation in question was constitutional and the demurrer to the bill was therefore rightly sustained.

Mr. ELSTON. Do you not think that the effect of that decision would be that the bureau should be extremely careful to observe the acts in everything they do?

Mr. MERITT. I think it makes it absolutely necessary for not only the Indian Bureau but Congress to be exceedingly careful regarding Indian legislation it is requested to enact. I can not impress too strongly upon the committee the importance of scanning with great care all the proposed Indian legislation because we have all kinds of propositions submitted which, if they were enacted by Congress, would result most disastrously and bring about great scandals.

Mr. Chairman, in Mr. Ballinger's statement he referred to the alleged waste of Indian funds in the Chippewa country. I have placed in the record a statement of all the employees in the Chippewa country paid out of Chippewa funds, showing their salaries, which are very meager, indeed, and it ought to be remembered that approximately one-third of these employees are Indians themselves; one-third of the employees in the Indian Service are Indians. Therefore, the statement that the Indian Service is operated to give jobs to white people is erroneous to the extent that at least one-third of the employees are Indians. We are cutting down the force in the field, and from now on there will be a gradual decrease of the number of employees in the Indian Service.

Mr. KELLY. Have you made computation in that statement showing the percentage of the money appropriated for the Chippewa Indians that goes to the payment of salaries?

Mr. MERITT. I have not reduced it to that basis but have placed in the record a statement showing all the salaries and all the positions paid out of Chippewa funds. We are gradually reducing the activities of the Indian Bureau in the Chippewa country, and if this legislation we have proposed is enacted, it will within the next five years very greatly reduce the activities of the Indian Bureau, and we are just as anxious to reduce these activities as any one else. We have been in process of reducing activities recently—thus in April and October, 1919, the Nett Lake and the Grand Portage superintendencies, respectively, were discontinued and the Indians placed under the Fond du Lac superintendency and a number of positions were eliminated. In September, 1919, the Vermilion Lake School was closed owing to lack of funds and the Indians in the immediate vicinity were placed under the Fond du Lac superintendency. In December, 1918, the Cass Lake Boarding School, which was run under an independent superintendent, was placed under the jurisdiction of the Leech Lake superintendency. In July, 1919, the White Earth Boarding School, and one of the day schools on that reservation, were discontinued.

This will show that there is a tendency to reduce the activities in the Chippewa country as quickly as conditions will justify. I believe Mr. Ballinger, himself, will bear me out in the statement that the Indian Bureau in the preparation of this report and in this draft of legislation before this committee, was exceedingly liberal in meeting the views of the Indians and cooperating to the furthest extent possible in meeting the situation in the Chippewa country so far as legislation was necessary.

Mr. BALLINGER. That statement is specifically correct but with reference to these reductions they were made at the instance of the General Council.

Mr. MERITT. They were made at the instance of the Indian Bureau. Reference has also been made to the recovery of swamp land for the Chippewa Indians. The Indian Bureau has worked on that proposition for years and has made a strong fight for the recovery of these swamp lands and it was due very largely to the work of the Indian Bureau, but I would also give to the Indians cooperating with us the credit that is due them.

Mr. HERNANDEZ. What is the area of these swamp lands?

Mr. MERITT. Over 100,000 acres. Mr. Ballinger made a statement regarding efforts in connection with the disposition of the timber in the Chippewa country and at my request was good enough to refer to the fact that that timber is not under the jurisdiction of the Indian Bureau. I am not affirming or denying that there has been fraud in connection with the disposition of that timber, but wish to impress upon the committee that the Indian Bureau is not responsible.

Mr. RHODES. Under whose jurisdiction is that matter?

Mr. MERITT. Under the jurisdiction of the General Land Office. The chairman of this committee asked me to make a statement in regard to the Fond du Lac School. The facts of the matter are these: The employees of the Fond du Lac School were transferred in September, 1918, and the school was then closed and has not been in operation since that time. Mr. Ballinger's statement in regard to that school was entirely incorrect.

MR. KELLY. How many pupils were there at the time that school was closed?

MR. MERITT. During the last year the school was in operation, there was an average attendance of nine pupils.

You will recall, gentlemen of the committee, the statement of Mr. Ballinger in regard to the general school situation in the Chippewa country. He almost had me convinced that we were wasting funds outrageously in the conduct of these schools, his plea being so very eloquent on that subject. But when we review the real situation we can find nothing about which there can be serious complaint. I find that in the Chippewa country we have at this time, among all these Chippewa Indians, consisting of 12,000, only five day schools; Nett Lake with an average enrollment of 29 and an average attendance of 25; Grand Portage with an average enrollment of 14 and an average attendance of 12; Pine Point with an average enrollment of 46 and an average attendance of 32; Round Lake with an average enrollment of 14 and an average attendance of 12; and Twin Lake with an average enrollment of 46 and an average attendance of 33.

MR. RHODES. What do you mean by an average enrollment?

MR. MERITT. That is the number of pupils who are enrolled during the year.

MR. RHODES. Would it not be proper to refer to that as the total enrollment and not the average enrollment?

MR. MERITT. We would have no complaint to make as to that change in the wording. Now, as to the boarding schools in the Chippewa country, we have at this time four Government boarding schools, Leech Lake with an enrollment of 66 and an average attendance of 34 at a per capita cost of \$251 and a total cost of \$23,184. Cass Lake boarding school with an enrollment of 54 and an average attendance of 34 at a per capita cost of \$136 and a total cost of \$5,639. Red Lake boarding school with an enrollment of 84 and an average attendance of 58, and Cross Lake on the same reservation with an enrollment of 80 and an average attendance of 57; these two boarding schools on the Red Lake Reservation cost per capita \$247, or a total cost of \$28,442, out of the funds of the Chippewas in the State of Minnesota.

In addition to these five day schools and four Government boarding schools we have contracts with two Catholic Mission schools, St. Mary's Catholic School with an enrollment of 71 and an average attendance of 53, costing the Chippewas \$5,292, and payable out of the Chippewa in Minnesota fund; and at the White Earth Reservation we have a contract with St. Benedict's Catholic School, which has an enrollment of 115 and an average attendance of 97, at a cost of \$9,525 payable out of the funds of the Chippewas in Minnesota; the contract price for the pupils in these schools is, if I remember correctly, \$108.

MR. ELSTON. Does that include board and tuition?

MR. MERITT. Yes, sir; but it should be borne in mind that this does not cover the actual cost of the service rendered.

MR. KELLY. Those figures show 393 pupils enrolled in all at day and boarding schools; does that include all the children?

MR. MERITT. The other children are taken care of in the public schools of Minnesota and we are going to discontinue these remaining

schools just as fast as we can do so with justice to the Chippewa Indian children.

Mr. KELLY. Would you say there was an opportunity for every Indian child to get education in the public schools who are now in these other schools?

Mr. MERITT. I believe that a large percentage of the children who are not in Government schools could be taken care of in the public schools, but it would not do to abolish these schools too quickly because there are not public-school facilities enough to take care of them all just at the present time.

Mr. KELLY. Are there any Indian children now with no opportunity for getting educational advantages in any school?

Mr. MERITT. We are having at this time a complete review of the school situation in the Chippewa country, and I can furnish you that information at a later date if you desire it then. Now, gentlemen, these figures are for the fiscal year 1919, and I think you will find them reasonably correct.

Mr. RHODES. Under your present plan affecting these schools, about how many years would it be before you can anticipate the Government will be able to abolish all these schools?

The CHAIRMAN. You are speaking with regard to the Chippewa Indians, Mr. Rhodes?

Mr. RHODES. Yes, sir.

Mr. MERITT. We have been abolishing the Chippewa schools at a very rapid rate in recent years but it will be some time before we can discontinue all the Government schools in the Chippewa country. However, I believe that within the next four or five years it will be possible to discontinue at least one half of the schools of the Government as now operated.

Mr. RHODES. What I want to know is whether the Government has definite plans in regard to terminating governmental supervision over these Indian schools?

Mr. MERITT. To this extent; that wherever it is possible to get the children in the public schools we take them out of the Government schools, and our plans, of course, will necessarily have to meet the school situation as it develops around the various Indian reservations. Take the White Earth Reservation, for example, if they establish public schools on the White Earth Reservation sufficient to take care of these Indian children, we will discontinue the schools there immediately, but on the Red Lake Reservation it will be some time before we can discontinue these schools on account of the conditions on that reservation.

Mr. ELSTON. How would this statement affect the legislation we are now considering? I do not understand the relevancy.

The CHAIRMAN. Are you referring now to the Fond du Lac item?

Mr. MERITT. I have already referred to the Fond du Lac matter. Mr. Ballinger in his statement attempted to create the impression that we had large areas locked up in the reservations in the Chippewa country contrary to existing laws and he quoted in part data found on page 286 of the hearings on the Indian appropriation bill of December 8, 1919, and referred to Fond du Lac as having an area of 39,567; Grand Portage as 24,191; Leech Lake 105,047 acres. I shall not continue to quote all the figures but the balance of the statement contains two others to which I want to refer; Red Lake 416,088 and

White Earth 442,231 acres. Now, Mr. Ballinger would have you infer that we have large areas of land located in these Indian reservations contrary to existing law, while this statement would make it appear, according to Mr. Ballinger's statement to the committee, that we are doing something illegal but the truth of the matter is that this statement refers to lands both allotted and unallotted within these reservations. Mr. Ballinger did not quote the White Earth Reservation of 442,231 acres as being held up illegally, because that would have been too absurd for the reason that everyone who knows anything at all about the White Earth Reservation knows that the entire reservation has been allotted, and also he did not state to the committee that we have a provision in this bill, which we submitted to Congress, which will authorize the disposition of all the surplus lands within these reservations except the lands absolutely needed for administration purposes.

The CHAIRMAN. I may be a little dense and no doubt am, but what would be Mr. Ballinger's object in attempting to show a situation like that, from your standpoint?

Mr. MERITT. I will answer that in a few moments when I close this statement in regard to the Indian schools. We believe we have in the Chippewa country schools that will compare favorably with other schools in the United States; we believe that the Indian schools connected with the Indian Service throughout the United States will compare favorably with other schools. We are conducting these schools at a cost very much less than the cost of other schools throughout the United States. You will bear in mind, gentlemen of the committee, that the per capita cost of these schools at this time, where we furnish board, clothing, books, medical attendance, and everything pertaining to these schools, is kept within \$250 on an average.

Mr. ELSTON. For how many months per year?

Mr. MERITT. Nine and ten months, and that cost you must recognize, in this day of high cost of living when food and clothing has advanced anywhere from 50 to 100 per cent in the last four or five years, is very reasonable, indeed.

Mr. RHODES. Not only reasonable but remarkable, indeed, if you are getting the service.

Mr. MERITT. We are rendering a service along educational lines that is unequalled in the school systems of the United States. In these Indian schools we have for years been doing things in training the Indian children that are just now being taken up by the most advanced public schools. For example, keeping track of the weight of the children. We have been doing that for the last 10 years. Also requiring a certain air space for the children; furnishing dental work for the children, furnishing physician service at these schools, and rendering this great service to these children at a cost that is indeed remarkable.

The CHAIRMAN. Remarkable for its cheapness?

Mr. MERITT. Remarkable for its cheapness and for its effectiveness, because when we take these children into the schools a large number of them can not speak English, but after a few years' training they go out as graduate speaking fluent English and capable of going into a white man's community and earning a living at good wages. We are turning out carpenters, blacksmiths, printers, painters, and, in

fact, mechanics of all kinds, and they go out in the States and take places in the community as trained mechanics. In order to indicate to you the appreciation of this splendid work of the Indian Service by people who know, who have investigated these schools, I am going to quote to you a statement made by Dr. Samuel A. Elliott, an honored member of the Indian Commission, who is not in any way connected with the administrative offices of the bureau, but his duties require him to see a great many schools and agencies. Dr. Samuel A. Elliott is a son of Dr. Elliott, president emeritus of Harvard University, is one of the best educated men, and has as broad and keen a mind as any man you will meet and knows what he is talking about always. This is what he says:

I can truthfully say, after mature investigation and deliberation, that the Indian system of schools in this country is the best in America, as the Indian system recognizes that education is not merely the accumulation of facts but the interpretation of facts and their application. The end of Indian education is not the acquisition of knowledge so much as the creating of power.

A statement of that kind from that character of a man, who has traveled over these Indian reservations and gone from Indian school to school and knows what he is talking about, should carry some weight with not only this committee but with the country at large.

Mr. RHODES. Is that opinion concurred in by members of the Indian Commission?

Mr. MERTT. I think it is.

Mr. RHODES. You have no diverse or conflicting reports on that subject?

Mr. MERITT. No, sir.

The CHAIRMAN. That does not signify that other members or other people have not had diverse reports on the schools?

Mr. MERITT. Not at all, because you will find diverse reports on every school and agency in the United States. As I pointed out yesterday, there are different factions on these various Indian reservations, and criticism is the most liberal thing you will find connected with Indian affairs. It is the easiest thing in the world to criticize and the hardest thing to execute.

The CHAIRMAN. What I had in mind was a letter we received from a superintendent, a friend of the Indian Commissioner, not in any way criticizing things.

Mr. MERITT. I understand, Mr. Chairman. Mr. Chairman, when I came to the committee room at the beginning of this hearing I did not intend to make a statement. I was simply going to be contented with submitting to the chairman the legislation we had so very carefully and patiently drawn after conferences with representatives of the General Council of the Chippewa Indians, their attorney, Mr. Ballinger, and after a conference with the Indians from the Red Lake Reservation and the attorney for the Red Lake Indians, Mr. Henderson, but after hearing the statement of Mr. Ballinger, and a very carefully prepared statement it is, which has required a great deal of time and attention to prepare it, and which he has prepared after conference with some of the shrewdest Indians in the Chippewa country, I felt it my duty to answer in this off-hand, unprepared, and extemporaneous way some of the misleading statements Mr. Ballinger has made. I have not time to answer all of them, but have tried to bring to the attention of the committee some facts in connection with Chippewa matters.

In conclusion, Mr. Chairman and gentlemen of the committee, in view of the general Indian situation I feel it is my duty to call a matter to the attention of this committee, not having in mind the members of the general council of the Chippewa Indians, or any other particular Indian in the Chippewa country, or Mr. Ballinger who has spoken here regarding the Chippewa situation. I want to make this statement with that distinct understanding: There is more propaganda in connection with the Indian Service at this time than at any time I have known since I have been connected with the Indian Bureau for a period of 15 years. This propaganda has been unusually active in Washington this winter for some reasons that we are unable to know all about. The Washington papers very frequently have contained statements during this winter regarding Indian matters that are wholly erroneous and tend to create wrong impressions. We do not know the source of this propaganda. For example, one of the Washington papers recently quoted a story about the cattle situation on the Blackfeet Reservation and the reading of that news item would convey the impression that the Indian Bureau had permitted 6,000 cattle to die on that reservation of neglect. It is known by everyone familiar with the situation in Montana that there was a severe drought in that State during the last year and there has been an acute situation among the cattlemen throughout the State and this also applied to the cattle situation on the Indian reservation; but the statement that we have permitted a loss of 6,000 head of cattle on the Blackfeet Reservation is absolutely untrue and absurd. There has been not to exceed 10 per cent loss on that reservation and that loss will compare very favorably with the losses of outside cattle owners in the State of Montana or any other State.

Mr. KELLY. That means how many cattle have been lost, Mr. Meritt?

Mr. MERITT. I have not the exact figures before me, but my impression is that the loss is considerably less than 500 head of cattle on that reservation. I am simply stating this as a sample, gentlemen of the committee, of the absurd statements that are being brought to the attention of Members of Congress at this time, and being published in the press of the country in regard to the Indian Service. This propaganda and this agitation has been actuated by selfish, venal, and vicious motives. There is a disposition on the part of some interested people who have selfish purposes in view to drag down the administration of Indian affairs in this country so that they can accomplish the ends they desire. For example, attorneys have gone out on various reservations and have made illegal contracts with Indians so that they can represent these Indians. They have not submitted these contracts to the Indian Bureau for approval because they know that the Indian Bureau will not approve such illegal contracts.

Mr. RHODES. Without declaring the names of the attorneys, can you not name some of the tribes?

Mr. MERITT. I prefer not to mention either attorneys' names or the names of Indians.

Mr. RHODES. I think it would be fair to the committee to make a full statement; perhaps you would not feel justified in naming individuals, but I think you could give us the names of the tribes.

Mr. MERITT. Our information is that contracts have been made, for example, with the Sioux Indians. The law now on the statute books regarding this matter requires that these contracts covering tribal Indian matters shall be made, executed, and approved in accordance with the provisions of law now on the statute books. We believe that a law of this kind should be obeyed; we believe that if these attorneys want to make contracts with Indians they should comply with the law. Our experience in the past has proven that it is dangerous for these contracts to be gotten through without compliance with the law. There have been exceptions to this in the past when there was lobbied through Congress certain laws which enabled certain attorneys to go to the Court of Claims without having contracts approved, and what was the result. The younger Members of Congress may not be familiar with these scandals, but if the new members of this committee will take this matter up with such Members of Congress as Representative Mann of Illinois, and men who are familiar with the actual situation several years ago, they will find that there were great scandals in connection with certain Indian legislation enacted by Congress.

The CHAIRMAN. What about the last appropriation bill? Was there any law in there that provided for situations where scandals could be committed?

Mr. MERITT. No, sir; I am very proud to say that since I have been connected with Indian legislation for the Indian Bureau I know of no legislation that has gone on the Indian bill that resulted in scandal, and there will not be without my calling it to the attention of the members of the Indian Committees.

The CHAIRMAN. You feel pretty safe in figuring that the committee would cooperate with you in that direction?

Mr. MERITT. I feel quite sure, Mr. Chairman, this game that is being tried to be played now in connection with Indian Affairs will be a failure.

Mr. RHODES. In the light of your statement that older members of Congress are more conversant with affairs generally related to Indian legislation and Indian Affairs than are the younger Members of Congress, having their attention called to some of these scandals and remembering what you said awhile ago that there is apparently organized propaganda tending to reflect on the Indian Service, am I justified in drawing the conclusion that this propaganda is recent among the Indians and has arisen from white people?

Mr. MERITT. My statement, Mr. Rhodes, was that the new members of Congress were not familiar with the scandals arising out of that particular legislation enacted several years ago. That is the reason why I referred to Representative Mann. He has made——

Mr. RHODES. I can see the truth in what you have said both as regards the experienced and inexperienced members, but what to be——

Mr. ELSTON. Do you not think that the propaganda is to discredit the bureau rather than to operate on Members of Congress?

Mr. MERITT. Both. In order to get this legislation through Congress they are attempting to break down the administrative function and influence of the Indian Bureau. Now, Mr. Chairman, in order to give a concrete example of the result of such legislation as I have indicated, I would call your attention to the fact that a few years ago there was gotten through certain Indian legislation not in

compliance with existing law, relating to attorneys' contracts and as a result of that legislation one firm of attorneys received fees in the amount of \$750,000. The Indian Bureau had nothing whatever to do with that attorney fee, but we have been very frequently criticized for it. Another fee amounted to \$250,000.

The CHAIRMAN. How much did the attorneys actually get?

Mr. MERITT. They got the money. You can always depend upon the attorneys getting their fee. In this case the attorneys got their fee of \$250,000 in cash and it was necessary for the Indian Bureau to come to Congress and get an appropriation for the judgment.

Mr. RHODES. Did they render service commensurate in any way with the fee received?

Mr. MERITT. They undoubtedly rendered service but I would not say commensurate with that fee. I know of no service at all commensurate with the fee in this case. In fact the Indian Bureau and the Treasury Department were called upon to furnish the information necessary to bring about a conclusion of this case by the court.

Mr. ELSTON. That law does not exist now that permits such thing?

Mr. MERITT. No, sir; if the existing law is carried out without exception——

Mr. RHODES. You did not tell me the source from which this organized propaganda came.

Mr. MERITT. You will readily appreciate, Mr. Rhodes, that I do not wish to furnish names in that connection.

Mr. RHODES. I am not asking for names. I want to know if it has arisen among Indians or white people.

Mr. MERITT. Both, but the principal offender, the man who will receive the greatest benefit if these contracts go through, a man who is exceedingly wealthy and quite able to carry on this propaganda, now has Indian representatives on a large number of reservations and also has Indian representatives here in Washington cooperating with him. He is not an Indian, but a white man; but he has Indians as his representatives.

Mr. ELSTON. You would call him the "Master Mind" as the detective story says.

Mr. MERITT. He is the "Master Mind," with a long purse.

Mr. BALLINGER. In view of the statement of Mr. Meritt, I would like to have him exonerate me.

Mr. MERITT. I stated in the beginning of this statement that I had no reference to Mr. Ballinger.

Mr. KELLY. There is something unfair about a blanket charge like this against the attorneys for the Indians, a large number of whom are giving good service, while it may be improper to name names, I think it improper to make a blanket charge of this character against all attorneys for the Indians.

Mr. MERITT. I have not charged all attorneys and have no intention of charging all attorneys. In fact, I have stated that the Master Mind is one attorney, and I do not care to mention names, but that organization has extended to a number of reservations, and the machinery is in full operation here in Washington at this time.

Mr. Chairman, in concluding my offhand, unprepared, extemporaneous statement in connection with these matters, I want to impress upon the committee and these Indians present what really has been accomplished for the Indians of this country during the last half century. As I stated a few days ago, we should bear in mind that half

a century ago a large majority of the Indians of this country were roaming the prairies of the west and were without any definite habitation.

The CHAIRMAN. Let us not go into all that; let us confine ourselves to the Chippewas.

Mr. MERITT. I am making my closing statement now, Mr. Chairman, and want to emphasize what has really been accomplished by the Indian Bureau for the benefit of the Indians. I want to show as a matter of credit to the Indian race itself that during the last 50 years there has been a greater advance in the progress of the Indian race than of any other race since the beginning of history.

The CHAIRMAN. The only objection to that is that on three specific occasions during the last three months the commissioner has made that same speech; it is a matter of record here, and I do not think it should be put in here again. I have no doubt you can do it much better than he, but I think we should confine ourselves to the case in hand.

Mr. MERITT. I will confine myself to the closing statement that the progress of the Indians during the last 50 years has been very remarkable indeed, and we are very proud of the rapid advance that the Indians of this country are making. It is our desire that all Indians progress just as rapidly as possible so that they can go as quickly as possible out from under the jurisdiction of the Indian Bureau. It is not the desire of the Indian Bureau to retain a single Indian under its jurisdiction who is capable of handling his own property, and we want to distribute their property among them as quickly as possible, so that they may enjoy full, free, and independent American citizenship.

The CHAIRMAN. Will you say now whether you recommend this legislation or not?

Mr. MERITT. We do recommend this legislation. Mr. Chairman, it is not all we would like to have, but it is as nearly a just compromise measure as we believe it is possible to draft at this time, in view of the many complications in the Chippewa country, and the many different views as to what should be done. I believe that the legislation as recommended by the department with amendments suggested by the department is reasonably fair to all the Chippewa Indians. Some provisions in the original bill were rather unfair, but as recommended by the department we believe that that legislation is just and should be enacted. I believe, however, that before it is finally enacted it should be gone over line by line, paragraph by paragraph, section by section, so that we may all have a thorough understanding as to its contents and make such changes as may be deemed wise in view of the facts brought out in this hearing.

Mr. ELSTON. Mr. Chairman, I was wondering how far apart the bureau representative and the representatives of the different factions of the Chippewas are with respect to this bill.

The CHAIRMAN. I will make a short statement. I think perhaps you were not here at the time. It was agreed in the beginning between Mr. Meritt and Mr. Ballinger that the counsel and bureau agreed upon approximately two-thirds of the meat in this bill; on the balance they are wide apart. The Red Lake delegation, who are here, must necessarily be a party to it and are desirous of passing this legislation as it stands to-day. That is the position we are in at the present time. The whole thing surrounds a spoken agreement and

legislation enacted in 1889. We have with us a gentleman who made the agreement, Mr. McLaughlin, and it seems to me we should hear from him.

Mr. MERITT. I have requested Maj. McLaughlin to come to the committee room with me to be heard at your pleasure.

The CHAIRMAN. Does the statement I have just made correspond with your understanding, Mr. Ballinger?

Mr. BALLINGER. I have examined the text of the printed draft of the department's bill and will state that there is only about 5 per cent of the printed text in controversy.

The CHAIRMAN. Then you have changed your mind somewhat since reading the bill?

Mr. BALLINGER. Yes, sir; after carefully rereading the bill.

The CHAIRMAN. I would like to ask the gentleman from the Red Lake Reservation whether he has changed his mind?

Mr. McDONALD. Mr. Henderson represents the Red Lake Indians and I represent them only as—

The CHAIRMAN. Well, then I will ask Mr. Henderson; we have heard your statement which was that you were unalterably opposed to it.

Mr. McDONALD. May I state that at that time we had not the bill H. R. 12072, I believe. Yesterday afternoon we had that bill in our possession and went through it and examined it; spent most of the afternoon going through it, section by section and division by division, and so far as the sections relating to the Red Lake Indians are concerned, the Indians expressed themselves as being absolutely opposed to that. In reference to the other two matters they have objections to some features of these two matters.

The CHAIRMAN. I want to ask a general question. Since the department counsel and the counsel recognized by the department are within 5 per cent of an agreement, and since you have modified your opinion materially since your last statement, is there any possibility that if you three elements had a day or two to discuss this matter you might get together on it and bring us back an agreement? I am not only asking that of you but of the other two interested parties as well.

Mr. McDONALD. In reference to the other bill it would seem as if there were matters in that bill that can not be reconciled. I did not know when speaking before that there were two bills. I thought it was all in one.

The CHAIRMAN. It is all in one; it is called a committee print.

Mr. McDONALD. As I understand it there are two bills, No. 12972 and No. 12973.

The CHAIRMAN. Now, there seems to be some confusion about the bill; the committee print is the original bill amended as per the agreement between counsel and the bureau and along with that is printed in sections 5, 6, 7, 8, and 9 of the jurisdictional bill.

Mr. McDONALD. That is not my understanding; No. 12972 is materially different from No. 12973.

Mr. RHODES. Why would it not be well for you to take a copy of the committee print and review that?

Mr. McDONALD. We have done so, but find that No. 12972 is different, especially in reference to the Red Lake and other matters, and as I understand it these changes were made by Mr. Meritt.

Mr. RHODES. What are your objections to the committee print?

Mr. McDONALD. We object to the section giving authority to the Indian Bureau to add to the rolls of the Chippewa Indians of Minnesota; also the means provided for the determination of compensation is wrong in many particulars. We think there are many people upon the Red Lake rolls who should not be there and that the first step should be to purge the rolls of these; we think some few, not many, who are off the rolls ought to be put on.

The CHAIRMAN. Just a moment. We are carrying this answer to my question too far. Now, the thought in my mind was that if there was any possibility of bringing the conflicting elements together, it might be wise to give you a few days to do that but if you have all of these objections—

Mr. McDONALD. May I state that the Chippewa Indians General Council reports that the question of competency should not be based upon blood status. We realize that there are many full-blood Indians most competent to administer their own affairs and that full-blood status is not the proper basis of establishing competency—

The CHAIRMAN. I have heard the statement made here that there were not any full bloods among the Red Lake Chippewas.

Mr. McDONALD. We take issue with that statement.

Mr. BALLINGER. This turns them all loose without relation to the kind of blood.

The CHAIRMAN. What is your opinion, Mr. Ballinger, as to whether or not the conflicting elements can be brought together by an intermission in this hearing for a couple of days?

Mr. BALLINGER. I think there are but two differences left to be settled. Whether or not the Red Lake Indians should be allotted and the reservation opened up, or whether nor not it shall remain as it is and the Indians remain in their present status. Upon that I am sure the General Council will never agree with the Red Lake Indians. The other question is whether or not the General Council, or whoever it is up there should have any say as to the administration of the law at all.

Mr. WILLIAM LUFKIN. That bill there is an agreement between the Red Lake Indians and the Commissioner of Indian Affairs. There is a protection there for Red Lake. Now, if we have an agreement to come together with Leech Lake, so that the will will be all right, I think we can get along all right, because in this hearing there has been nothing said about protection for Leech Lake Indians.

The CHAIRMAN. Your idea is that the bureau and the General Council agreed to protect Red Lake but did not agree to protect the Leech Lake Indians?

Mr. LUFKIN. Yes, sir.

Mr. BALLINGER. Leech Lake Reservation was ceded in 1889.

The CHAIRMAN. I think under the circumstances we will call on Mr. McLaughlin and let him start to tell us about this.

STATEMENT OF MR. JAMES McLAUGHLIN, INSPECTOR, DEPARTMENT OF THE INTERIOR.

The CHAIRMAN. How many years have you been in the service, Mr. McLaughlin?

Mr. McLAUGHLIN. Forty-nine consecutive years.

The CHAIRMAN. Now, Mr. McLaughlin, you have heard all the testimony here and understand exactly what we want to clear up.

You are one of the men who made this original agreement with the Red Lake Indians in 1902 and you represented the Government. You can tell us exactly what the Government had in mind as to how that agreement would affect the Red Lake Indians in their connection with the Chippewa band or tribe of Indians in Minnesota. Just go ahead in your own way and explain the matter and we will ask you some questions afterward.

Mr. McLAUGHLIN. I was commissioned in March, 1896, and was sent to negotiate a treaty with the Indians, under the act of Congress authorizing the Secretary of the Interior to employ inspectors for that purpose. I was engaged in that work exclusively for 16 years, and in the latter part of February, 1902, received orders from the Secretary to proceed to the Red Lake Reservation, under instructions which were prepared in the office of the Bureau of Indian Affairs and approved by him, to negotiate with the Indians for opening the reservation. These instructions were read into the record yesterday by Mr. Meritt, and it was along the line of these instructions that I proceeded.

I wish to have the committee understand that instructions for negotiating with the Indians invariably come from the department. I have never known the Indians yet who applied or were the originators of a desire to open any portion of the lands, and my instructions were prepared in the office and accompanied by a petition, as explained by Mr. Meritt, by two Senators and seven Congressmen from Minnesota and by a petition from the Commercial Club of Thief River Falls. I had all of these papers with me at the time and entered upon negotiations with them about the 3d of 4th of March, and continued for six days and concluded the agreement on March 10, 1902. The agreement was an excellent one and they accepted it and I went back in 1903 to endeavor to have them accept an amendment provided in an act of Congress of March 3, 1903, and they appealed to us a dozen times, "Give us the treaty we made with you; that is what we want." There are a number of gentlemen here who were present at that time; also I had one witness to the agreement and one interpreter. Here is the original agreement, even finished up by seals as directed. This I do not carry with me, but got from the files of the department. Here is my report on 71 pages of typewritten matter; the minutes of the council, and being 18 years ago, I had only a faint recollection of much that was said, but was pleased to see the way the Indians submitted questions they wished answered and also my replies to them. Here is 75 pages of typewritten matter of our negotiations of 1903; when I was sent out to see if the Indians would accept the provisions of the act of March 3, 1903; that is the Indian appropriation act, and in that act of Congress and in my agreement with the Indians it was provided by article 4, which I would like to read for the reason that I would like to refer to it from time to time.

ART. 4. It is further agreed that the said Indians belonging on the said Red Lake Indian Reservation shall possess their own reservation independent of all other bands of Indians and shall be entitled to an allotment of 160 acres of land each, of either agricultural or pine lands, the different lands to be apportioned as equably as possible among the allottees.

Now, in the Indian appropriation act of March 3, 1903, there were a number of changes made in other articles, but article 4 remains,

intact as it was. The Indians, after long discussion, many of them old men, with Mr. Graves, one of my interpreters, absolutely refused to accept for two reasons; the method of payment was entirely different from that provided in the agreement and the amendment provided for donating sections 16 and 36, a tract of land opened for settlement, to the State of Minnesota. Several of the Indian speakers said: "We live in Minnesota; the people of Minnesota are our friends; the State officials are our friends, but we do not owe them anything and are not going to donate to them \$57,000 worth of land. Gen. Scott was opposed to the transaction all the way through and while he did not oppose it in my presence and came up and stood along side of me during the last four days of our council; he gave no encouragement to it. I think if I had been a Chippewa Indian at the time I would have negotiated just as they did.

The CHAIRMAN. I regret very much, Mr. McLaughlin, that at this important point in your testimony the time for intermission has arrived, and the committee, under agreement, has to hold up the hearing at this point until to-morrow morning at 10 o'clock.

(The committee thereupon adjourned until Friday morning, March 12, at 10 o'clock.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Friday, March 12, 1920.

The committee met, pursuant to adjournment, at 10 o'clock a. m., Hon. Homer P. Snyder (chairman) presiding.

The CHAIRMAN. Gentlemen, we will resume the hearing where we left off last evening, with Mr. McLaughlin in the chair.

STATEMENT OF MR. JOSEPH McLAUGHLIN—Continued.

The CHAIRMAN. Mr. McLaughlin, will you proceed in your own way as you were, when we finished last evening?

Mr. McLAUGHLIN. Mr. Chairman and members of the committee, I would wish to impress upon you that in negotiating with Indians and large bodies of the Indians for the ceding of lands, it is a very important matter and requires a great deal of explanation and reexplanation. These are the minutes of the councils that we held at that time, and I would like very much that they be used. They are already recorded as Senate Report 1087, accompanying Senate bill 4962.

The CHAIRMAN. Are those minutes, as printed, available?

Mr. McLAUGHLIN. They are available.

The CHAIRMAN. It seems to me that if the minutes are printed and available, that it would be hardly necessary to print them all again, and I will be glad to consider the judgment of the other members of the committee.

Mr. HERNANDEZ. I would suggest that they be printed, because they will hardly be available now. That is about 18 years ago. I move that these minutes of these conferences be printed in the record.

The CHAIRMAN. The minutes of the Red Lake conference?

Mr. HERNANDEZ. Yes.

The CHAIRMAN. If there is no objection, so ordered.

AGREEMENT WITH RED LAKE AND PEMBINA BANDS OF CHIPPEWA INDIANS OF MINNESOTA.

April 12, 1902.—Ordered to be printed.

Mr. Clapp, from the Committee on Indian Affairs, submitted the following report [to accompany S. 4962].

The Committee on Indian Affairs, to which Senate bill 4962 was referred, recommends the following amendments:

Insert, after the word "agreement," on the second line of the sixth page, the following: "except sections 16 and 36 of each township, which are hereby granted to the State of Minnesota for school purposes."

Also, after the word "law," on the twenty-first line of the sixth page, the following: "shall pay said sum of \$3.90 in five annual payments annually in advance."

And before the words "of the," in the twenty-third line of the sixth page, the following words: "the said five annual payments in advance and."

And as amended said committee reports favorably upon said bill and recommends its passage.

In support of the foregoing report the committee begs leave to refer to the communication of the honorable Secretary of the Interior, hereto attached, marked "Appendix A."

APPENDIX A.

[House Document No. 532, Fifty-seventh Congress, first session.]

LETTER FROM THE SECRETARY OF THE INTERIOR, TRANSMITTING, WITH A COMMUNICATION FROM THE COMMISSIONER OF INDIAN AFFAIRS, THE DRAFT OF A BILL FOR THE RATIFICATION OF AN AGREEMENT WITH THE RED LAKE AND PEMBINA BANDS OF CHIPPEWA INDIANS OF MINNESOTA.

April 4, 1902.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, April 3, 1902.

SIR: I have the honor to transmit herewith a copy of a communication of the Commissioner of Indian Affairs and accompanying copy of an agreement with the Red Lake and Pembina bands of Chippewa Indians of Minnesota for the cession and relinquishment to the United States of the western portion of the Red Lake Reservation, lying west of the range line between ranges 38 and 39 west of the fifth principal meridian, Minnesota, comprising 256,152.28 acres, together with copy of report thereon of United States Indian Inspector James McLaughlin, who negotiated the agreement.

The Commissioner has carefully considered the agreement and has prepared a draft of a bill to ratify and confirm the same.

I also herewith transmit a copy of a report of the Commissioner of the General Land Office, dated the 3d instant, to whom the matter was referred for report as to the disposition of the ceded lands.

The agreement meets with my approval, and I have the honor to recommend that it receive favorable action by the Congress.

Very respectfully,

E. A. HITCHCOCK, *Secretary.*

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 28, 1902.

SIR: The office has the honor to acknowledge the receipt, by Department reference of the 22d instant, for report, of a letter from United States Indian Inspector James McLaughlin, dated March 18, 1902, with which he submits an agreement with the Red Lake and Pembina bands of Chippewa Indians of Minnesota, dated March 10, 1902, for the cession and relinquishment to the United States of the western portion of the Red Lake Reservation, lying west of the range line between ranges 38 and 39 west of the fifth principal meridian, Minnesota. The tract thus ceded comprises 256,152.28 acres.

On February 10, 1902, the Secretary of the Interior designated Inspector McLaughlin to negotiate with the Red Lake and Pembina bands of Chippewa Indians for the cession of the western portion of their reservation, under the provisions of the act of Congress of March 3, 1901. (31 Stat. L., 1077.) The section of the act referred to provides as follows:

"That the Secretary of the Interior be, and he is hereby, authorized in his discretion to negotiate through any United States Indian inspector agreements with any Indians for the cession to the United States of portions of their respective reservations or surplus unallotted lands, any agreements thus negotiated to be subject to subsequent ratification by Congress."

On February 12, 1902, a letter of instructions to the inspector in conducting said negotiations was prepared in this office. The instructions were approved by the Department on February 14, and were transmitted to the inspector on February 21. The agreement with the Indians, as above stated, is dated March 10, 1902.

Article I of the agreement provides for the cession of the lands, describing the same, approximating 256,152 acres; also for the removal to the retained portion of the reservation of the individual Indians residing on the ceded portion, and for the removal of the bodies of the dead buried on the ceded portion; and appropriates \$5,000, or so much thereof, as may be necessary, out of the consideration to be paid the tribe, to accomplish these purposes.

Article II provides that the United States shall pay the Indians for the cession and relinquishment of said land the sum of \$1,000,000.

Article III provides the manner in which the payments shall be made, namely, to the members of the tribe, share and share alike, \$250,000, within ninety days after the ratification of the agreement; the remaining \$750,000 to be paid in fifteen annual installments, the first payment to be made in October of the year following the payment of the \$250,000.

Article IV provides that the Indians of the Red Lake Reservation shall possess the diminished reservation independent of all other Chippewa tribes; also that when lands are allotted to them they shall be entitled to 160 acres each, including pine lands as well as agricultural lands.

Article V provides that nothing in the agreement shall be construed to deprive the Indians of the reservation of any benefits they are entitled to under existing treaties and agreements not inconsistent with said agreement.

Article VI provides that the agreement shall take effect and be in force when signed by United States Indian Inspector James McLaughlin and by a majority of the male adult Indians and when accepted and ratified by the Congress of the United States.

The agreement is signed by James McLaughlin, United States Indian inspector, on the part of the United States, and by 220 adult male Indians out of a total of 334. The signatures are duly witnessed and certified to by Daniel Sullivan, overseer in charge of Red Lake Subagency; Frank H. Kratka, mayor of Thief River Falls, Minn., and B. L. Fairbanks, of White Earth Agency, Minn. Joseph C. Roy, C. W. Morrison, and Peter Graves, interpreters, under date of March 12, 1902, certify that the agreement was fully explained by them to the Indians in open council, and that it was fully understood by them before signing, and that the agreement was duly executed and signed by said Indians. Maj. George L. Scott, the acting agent, certifies that the total number of adult male Indians over 18 years of age belonging on the Red Lake Reservation, Minn., is 334, of which number 220 signed the agreement.

Inspector McLaughlin in his report states that in going to the Red Lake Agency to enter upon negotiations with the Indians he traveled by team from Thief River Falls, Minn., through about the center of the tract from west to east, and thus obtained a general knowledge of the character of the country and the quality of the land.

Respecting his work of conducting the negotiations, Inspector McLaughlin in his report states that the Indians received him very cordially, but were at first strongly opposed to considering any proposition for the cession of any portion of their reservation; that they expressed themselves as suspicious of every person sent out to talk with them about their lands; that their past experience, especially under the act of January 14, 1889, had caused them to be distrustful of everybody; that they had many grievances and just claims which they wanted adjusted before entertaining any proposition for the cession of more land.

He further says that after they had stated their grievances, all of which he assured them would appear in the minutes of the councils and thus be submitted to the Department, he reasoned with them very patiently, satisfactorily answered their questions, and explained to them the status of their many contentions, thus gaining their confidence and eventually concluded the agreement with them, which was accepted by all present at the closing council, numbering 220 of the 334 adult male Indians belonging on the reservation; that the signature of every Indian on the reservation could doubtless have been obtained if they could have been reached, as concurrence was practically unanimous after they had reached an agreement; that the Indians were unanimous in desiring those of their people who reside on the ceded portion to remove to the diminished reservation; and that the Indians residing on the ceded tract who

were present in the council announced their intention to remove within the diminished reservation, signifying their intentions so to remove in open council.

Relative to the character of the land ceded, the inspector states that, taken as a whole, they are excellent agricultural lands; that there are some marshes within the tract, the most of which, however, afford good grass and with drainage, which is quite feasible, most of the lands can be brought under cultivation; and that all the lands that can not be brought under cultivation would make good meadow lands by cutting the numerous beaver dams in the marshy tracts, thus permitting of drainage; that the hay lands would yield large crops of hay annually, the grass of the marsh lands being of an excellent quality. He further states that there are a great many extensive beaver dams in a good state of repair throughout the ceded tract which hold back the waters of winter snows and summer rains, thus submerging the marshy portions and lowlands, which if removed would drain the greater portion of the marsh lands and make them equal in value for cultivation to the higher and more desirable lands as they exist at present.

Inspector McLaughlin states that there is no pine timber on the ceded portion, but that there are a great many scattering small trees, chiefly poplar and oak, throughout the tract, each section of land containing more or less timber of this character sufficient on almost every quarter section to provide the homesteader with necessary fuel.

The consideration allowed the Indians is a fraction over \$3.90 per acre. Inspector McLaughlin states that he regards this as a fair and reasonable price; that it is true that some of the choicest portions could be sold at much higher prices, ranging from \$5 to \$15 per acre, and that some select tracts adjacent to Thief River Falls would doubtless bring from \$20 to \$25 per acre; but that, taking the entire cession as a whole, with its numerous marshes and undrained tracts, he regards the consideration as a fair and just price both to the Indians and to the United States. He also commends the method of its payment as provided in the agreement.

The inspector submits a list of families residing on the ceded portion, giving the name of the head of the family. Reference is had to his report for a list of the names. The families number 42, including 129 persons. As provided in Article I of the agreement, these Indians are to remove to the retained portion of the reservation within six months after the ratification of the agreement, and are to be paid in cash by the tribe, through the Indian agent, for their improvements, which they will be forced to abandon. The inspector estimates that it will take about \$4,200 to discharge this obligation. To this he estimates must be added \$800 for the removal of the dead now buried on the ceded portion, making a total expenditure of \$5,000 for these two purposes; these disbursements to be made out of the first payment to the Indians.

Inspector McLaughlin states that his trip by team from Thief River Falls to the Red Lake Agency, about 26 miles of which was through the ceded tract, afforded him an opportunity of seeing the improvements of the Indians residing on that portion of the reservation, as most of them lived adjacent to the line of road that was traveled; that he estimates an average of \$100 for each family for these improvements, making an aggregate of \$4,200; that some of the improvements are not worth to exceed \$25, others \$50, others \$100, while some are worth probably \$300; that to the \$4,200 thus estimated, \$800 must be added for payment for the removal of the dead who are buried on the said tract to the diminished reservation, which payments for improvements and removal of the dead should be made by the agent out of the first payment, as provided in the agreement.

In conclusion Inspector McLaughlin states that he regards the agreement as fair and just, and the best that could be concluded with the Indians; that the manner of the payment provided is the best for the Indians that could be devised that they would consent to; that he regards the ratification of the agreement as in the interest of the service, and recommends its approval.

The compensation to be paid the Indians, about \$3.90 per acre, is, in the judgment of this office, fair and reasonable. The office also favors its payment to the Indians in cash, rather than its expenditure in goods and supplies for their benefit. By personal conference with Inspector McLaughlin, it is learned that the Indians would not have listened to any proposition to pay them other than in cash. The distribution among the Indians of \$750,000 for fifteen years, as provided in the agreement, will give them an annuity of about \$37 per capita each year.

The office submits herewith excerpt copies of the map of Minnesota, showing the portion of the Red Lake Reservation included within the cession.

Believing that the agreement is just and fair and that it should be ratified, the office has prepared and submits herewith the draft of a bill to ratify and confirm the same. Section 2 of the proposed bill provides for the appropriation of \$250,000, being the amount necessary to make the first payment as provided by Article III of the agreement.

The question of the disposition of the lands ceded is properly one for the Department and the Commissioner of the General Land Office to determine. It is suggested that either the Department or the General Land Office prepare an additional section to the bill submitted herewith, providing for the disposition of the lands.

Besides the draft of the bill (in duplicate) there are transmitted herewith two copies of the agreement, two copies of the council proceedings, two copies of Inspector McLaughlin's report, and two excerpt copies of the map of Minnesota, showing the lands ceded by the agreement, with the recommendation that one copy of each be submitted to the respective Houses of Congress with recommendation for favorable action on the agreement.

The original agreement, Inspector McLaughlin's report, and the report of the council proceedings are also submitted herewith, with the request that they be returned to the files of this office when they shall have served their purpose before the Department.

Very respectfully, your obedient servant,

W. A. JONES, *Commissioner*.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
St. Paul, Minn., March 18, 1902.

SIR: Under instructions prepared in the Indian Office, dated February 12, 1902, approved by you February 14, 1902, and transmitted to me in Indian Office letter of February 21, 1902, I have the honor to transmit herewith an agreement, dated the 10th instant, entered into by me as United States Indian inspector, on the part of the United States, with the Red Lake and Pembina bands of Chippewa Indians belonging on the Red Lake Reservation, Minnesota, by which the said Indians cede to the United States all that portion of their reservation lying west of the range line between ranges 38 and 39 west of the fifth principal meridian.

The tract thus ceded comprises 256,152.28 acres, and is situated in 19 townships (7 full townships and 12 fractional townships), as shown by plats of the respective townships prepared in the office of the surveyor general of Minnesota, tabulated as follows:

Township.	Range.	Meridian.	Acreage.
151 north.....	39 west.....	Fifth.....	1,021. 37
152 north.....	.....do.....	.....do.....	21, 876. 05
153 north.....	.....do.....	.....do.....	23, 061. 91
154 north.....	.....do.....	.....do.....	22, 590. 93
152 north.....	40 west.....	.....do.....	18, 723. 85
153 north.....	.....do.....	.....do.....	22, 909. 73
154 north.....	.....do.....	.....do.....	23, 100. 36
155 north.....	.....do.....	.....do.....	170. 71
151 north.....	41 west.....	.....do.....	14. 00
152 north.....	.....do.....	.....do.....	19, 026. 41
153 north.....	.....do.....	.....do.....	22, 732. 37
154 north.....	.....do.....	.....do.....	22, 874. 61
155 north.....	.....do.....	.....do.....	273. 72
152 north.....	42 west.....	.....do.....	3, 703. 26
153 north.....	.....do.....	.....do.....	18, 398. 72
154 north.....	.....do.....	.....do.....	22, 456. 33
155 north.....	.....do.....	.....do.....	511. 81
153 north.....	43 west.....	.....do.....	1, 146. 27
154 north.....	.....do.....	.....do.....	11, 557. 87
Total acreage.....			256, 152. 28

In going to the Red Lake Agency to enter upon negotiations for the cession of these lands, I traveled by team from Thief River Falls, Minn., through about the center of the tract from west to east, and thus obtained a very general knowledge of the character of the country and quality of the land.

The tract included in the cession, taken as a whole, is excellent agricultural land. There are some marshes within the tract, the most of which, however, afford good grass, and with drainage, which is quite feasible, most of those lands could be brought under cultivation, and all the land that would not be brought under cultivation by cutting the numerous beaver dams in the said marshy tracts would be thus sufficiently drained to become good meadows, which would yield large crops of hay annually, and the native grass on these marsh lands is of excellent quality.

There are a great many extensive beaver dams in good repair throughout the tract, which hold back the waters of winter snows and summer rains, thus submerging the

marshy portions and lower lands, which, if removed, would drain the greater portion of the marsh lands and make them equal in value, for cultivation, to the higher and more desirable portions at the present time.

There is no pine timber on this ceded portion, but there are a good many scattering, small-sized trees, chiefly poplar and oak, throughout the tract, each section of the land containing more or less of this character of timber, and sufficient on almost every quarter section to provide the homesteader with necessary fuel.

The consideration allowed the Indians for the cession is a fraction over \$3.90 per acre, which I regard as a fair and reasonable price. It is true that some of the choicest portions could be sold at a much higher price, ranging from \$5 to \$15 per acre, and some select tracts adjacent to Thief River Falls would doubtless bring from \$20 to \$25 per acre; but taking the entire cession as a whole, with its numerous marshes and undrained tracts, I regard the consideration, also manner of payment, as fair and just both to the Indians and to the United States.

The people of the Red River Valley are anxiously looking forward to the opening of these lands, and from the number of settlers now seeking homes throughout this section of the country these ceded Red Lake Reservation lands are certain to be in great demand as soon as they are opened to settlement.

The Indians received me very cordially, but were at first strongly opposed to considering any proposition for the cession of any portion of their reservation. They expressed themselves as suspicious of every person sent out to talk with them about their lands; that their past experience, especially from the act of January 14, 1889, had caused them to be distrustful of everybody; that they had many grievances and just claims which they wanted adjusted before entertaining any proposition for the cession of more lands.

After they had stated their many grievances, all of which I assured them would appear in the minutes of our councils and thus submitted to the Department, I reasoned with them very patiently, satisfactorily answered their questions, and explained the status of their many contentions, thus gaining their confidence; and eventually concluding the agreement, which was accepted by all those present at the closing council and concurred in by 220 of the 334 Indians belonging on the reservation.

The signature of every Indian of the agency could doubtless have been obtained if they could have been reached, as concurrence was practically unanimous after we had reached an agreement. The Indians were unanimous in desiring those of their people who reside on the ceded tract to come within the diminished reservation, and those of said Indians residing on the ceded tract who were present in the council announced their intention to remove within the reduced reservation, and thus announced their election in open council.

Payment for the improvements of those abandoning their locations on the ceded tract, also for removal of their dead, is to be made by the Indians of the reservation to the respective claimants, as provided by Article I of the agreement, after full discussion of the matter as shown by the minutes of the councils. The following is a list of Indians belonging on the Red Lake Agency now residing on the ceded tract who will remove to the diminished reservation, viz:

No.	Name.	Number in family.	No.	Name.	Number in family.
1	As sin e wa cum ig ish king.	5	23	She na we yah bow eke.	1
2	Kay she bah o sake.	2	24	Mah nee.	2
3	Ain du o ke zhig.	1	25	Kay zhe baush king.	4
4	Ke ne we guah nay aush.	8	26	May mais se no wish king.	8
5	Pe waush.	7	27	Be wah be co we nay.	2
6	Way oon dah Cumigish king.	2	28	Gah gah mah nah quah oke.	6
7	Nah wah cumig.	1	29	Kay bay ke mew.	6
8	Omah yah wah je waib.	4	30	Wain je mah dub.	6
9	May zhuske e ans se gaik.	1	31	Woon be be wun eke.	2
10	Sho ne yah quay.	3	32	May yah wab eke.	1
11	Bay baum e ke zhig waish king.	2	33	Bah zhe duay we dum oke.	1
12	Shay nah wish king.	3	34	Tay vah guaush oke.	1
13	Kah pe she shish.	3	35	Way wah sum oke.	2
14	Nah gah nah quah ung.	2	36	O daun dah cum ig e mum moke.	2
15	Gay bay gah bow.	2	27	Kah ke way cun ig ish king.	5
16	Bay de dway we dung.	3	38	Ah be tah kay kaik.	2
17	Kah ke gay ke zhig.	2	39	Joseph Nedeau.	3
18	Shah wun ah cum ig ish king.	4	40	Mrs. P. Moylen.	3
19	Undah wah we zoonce.	2	41	Anna Wells.	3
20	O mush kow ah cumig oke.	3	42	Nay sah wah ji waib.	2
21	Mis quah dais aince.	2			
22	Kah ke gay be nise.	5			
				Total.	129

My trip by team from Thief River Falls to Red Lake Agency, about 26 miles of which was through the ceded tract and the Indians residing thereon being located along or adjacent to the road, I was enabled to see most of their houses and character of improvements, and estimated them at an average of \$100 each—\$4,200 for the improvements of the 42 families to be paid to the said persons in proportion to the value of their respective improvements, some of which are not worth to exceed \$25, others \$50, others \$100, while some of them are worth \$300. To this \$4,200 is to be added \$800 for payment of removal of the dead to the diminished reservation, who are buried within the ceded tract; which payment for improvements and removal of the dead to be paid for by the Indians through their agent out of the first payment made to them from the proceeds of the cession.

I regard the agreement as fair and just and the best that could be concluded with the Indians; that the manner of payment provided is best for the Indians of any that could be devised that they would consent to; that it is also in the interests of the service, and I respectfully recommend its approval.

Minutes of councils transmitted herewith.

Very respectfully, your obedient servant,

JAMES McLAUGHLIN,
U. S. Indian Inspector.

The SECRETARY OF THE INTERIOR,
Washington, D. C.

PROCEEDINGS OF A COUNCIL HELD BY JAMES McLAUGHLIN, UNITED STATES INDIAN INSPECTOR AT RED LAKE AGENCY, MINN., WITH THE CHIPPEWA INDIANS BELONGING ON THE RED LAKE RESERVATION, MINN., WITH REFERENCE TO THE CESSION OF THE WESTERN PORTION OF THEIR RESERVATION.

Council convened March 4, 1902, at 1 o'clock p. m., with about 120 Indians in attendance. Peter Graves interpreting.

R. E. L. DANIEL, clerk in charge of agency. My friends, it is with very great pleasure that I introduce to you Mr. James McLaughlin, United States Indian inspector, who comes among you representing the United States Government on business which he himself will explain to you. I desire further to congratulate you upon having Mr. McLaughlin, a man who has spent his life among the Indians and whose knowledge of your people, your interests, and your needs is greater than any other man whom it has been my good fortune to meet in Indian work; and as your friend, for your own welfare, I ask you to consider well what he will say to you in this council.

Inspector McLAUGHLIN. My friends, an act of Congress of March 3, 1901, authorized the Secretary of the Interior, in his discretion, to negotiate through any United States Indian inspector agreements with any Indians for the cession to the United States of portions of their respective reservations or surplus unallotted lands, any agreements thus negotiated to be subject to subsequent ratifications by Congress, and I, being one of the United States inspectors, have been sent here by the Secretary of the Interior to negotiate with you Indians of the Red Lake Agency for a portion of your reservation, which portion it is believed you do not need, and from which you are deriving no benefit. The tract of land that I am directed to negotiate for is the western portion of your reservation, and is situated in 19 townships, only 7 of which are full townships, the other 12 being fractional, lying along the boundary lines. The total acreage of the tract referred to is 256,152.28 acres, which is only a little over 11 full townships, about 11½ townships.

The tract of land that our negotiations will include is that portion of your reservation lying in Red Lake County, situated west of the boundary line between Red Lake and Beltrami counties, which line is about 14 miles in a direct line west from the most westerly point of Red Lake, as shown by the sectional maps prepared from the Government survey. The entire tract has been surveyed, and we therefore know the actual acreage that it contains, which is, as I have already stated, 256,152.28 acres. Plats showing the acreage of each of said townships and fractional townships have been furnished by the surveyor-general of Minnesota, and I have them with me; there is therefore no guesswork of approximate acreage, but we know the actual acreage as ascertained by survey.

Your present reservation approximates 800,000 acres, and the cession by you of the portion referred to would leave you about 544,000 acres, which is more than

ample for your needs. In order to obtain a personal knowledge of the land, I came here by way of Thief River Falls, and therefore drove through about the middle of the tract from west to east, a distance of about 26 miles, and thus obtained a very general knowledge of the character of the country and quality of the land, and my trip across the country, together with what I have learned from persons familiar with it convinces me that the greater portion of that land is good agricultural land, but there is considerable low, damp land, also some marshes, which portions are of comparatively little value unless the lands can be successfully drained.

There is also very little timber of any commercial value upon the tract; it is true there are numerous groves of small trees, mostly poplar, with some scattering small sized oak, which would provide abundance of fuel for settlers, also some material for log houses, but the chief value of that portion of your reservation lies in its being agricultural land.

I am not talking disparagingly of that tract, for I regard it above the average quality of land in such a low and comparatively level section of country, I simply say that it is not all good land, containing as it does, some marsh and damp land, and that the timber upon it is of very little commercial value, so that in considering the price per acre that the entire tract should bring, these facts should not be overlooked.

In the first place, I desire to ascertain your wishes, as to whether or not you are willing to dispose of this tract and if you consent to its cession we will then take up the question of price and manner of payment.

Now, my friends, I am here to get an expression from you as to your wishes in this matter, and having some discretionary powers vested in me by the Secretary in negotiations of this character, I will meet you fairly as to price and conditions of payment, but I desire to impress upon you that any agreement concluded by us has to be ratified by Congress before it is binding upon either the Indians or the United States, and must therefore be in accordance with the policy of the Government. Many of you doubtless understand the status of Indian-reservation lands, but that all of you may know, I will explain to you the nature of the Indian title to lands. The right of Indians to their reservations is that of occupancy alone; the vested right is in the United States, subject only to the right of occupancy by the Indians. This applies to reservation lands that are unallotted and held in common as your Red Lake Reservation lands are; allotted lands are different; they belong to the allottee and are held in trust for him or her by the Government for the period of twenty-five years from the date of allotment, and are exempt from taxation during the trust period, after which the allotment belongs to the allottee, with the right to do what he pleased with it.

Indian reservation lands held in common by Indians can not be sold or disposed of except to the United States; and while the fee or vested right to the lands is in the United States the right of the Indians to the occupancy is as sacred as that of the Government to the fee. Indians have a right to the use of their reservation and benefits of what it produces, whether from the results of their own labor or of natural growth, so that they do not commit waste. They are therefore simply tenants for life, having free use of the lands during their lives, and the same right passes down to their children and grandchildren, if not sooner relinquished to the Government, but, as I said before, they can not sell any such lands except to the United States, which sale is called extinguishment of the Indian title, and it is for the extinguishment of your title to the western portion of your present reservation that I am now here to negotiate with you.

My friends, the surplus lands of every Indian reservation will sooner or later be opened to settlement, and it is only a question of time until such will be consummated. It is coming as sure as the day succeeds the night, and the best course for Indians to pursue in every such instance is to make the best bargain possible in disposing of lands they do not need and provide for their wants from the proceeds. The Department who has charge of Indian affairs, and even the President who is our Chief Executive, are, owing to the pressing demand for homes for new settlers, powerless to prevent the opening of the surplus lands of Indian reservations, which the Indians do not actually need and can not make proper use of. Public opinion demands it and popular sentiment can not be overcome, and all that the Department can do in the matter is to protect the Indians by obtaining for them reasonable compensation for their surplus land. If you needed this tract of land that I am talking to you about it would be quite different, but you have no need of it and are deriving little or no benefit from it, and you old men should grasp the opportunity of profiting by the proceeds of its cession, which would provide for your comforts in your declining years; and you young men would thus be given a start that should, with reasonable industry on your part, place you in comfortable circumstances and on the road to independence.

It may be proper for me to state that I have made a great many agreements with Indians for the cession of lands during the past six years, and every agreement that I have made has been approved by the Department and ratified by Congress, except seven, which I have made the past year, which are now before Congress and will doubtless be ratified during the present session, and every agreement that I have made has been carried out to the letter as written. I am exceedingly careful in wording agreements, avoiding ambiguous expressions, so as to leave no possible chance for misinterpretation or misunderstanding as to the meaning of any word, and I believe this to be the principal reason why I am assigned to this class of work.

I am also very particular in the wording of my agreements so as to properly protect the Indians and the Government in the transaction.

This is my first visit to the Chippewa country. I have never visited any of the Chippewa agencies before, although I know of the Chippewa very well and have met many of your people in the past, and many of you doubtless know of me, and those of you who have heard of me must have learned that I am a firm friend of the Indians, having been continuously among the Indians in an official capacity for over thirty years, and I am glad to be here among you Red Lake Chippewas to negotiate with you for this tract of land.

We have met as friends and we must discuss this matter in a friendly way, and if we can not reach an agreement we will part as friends, so that if we ever meet again it will be as friends.

I am in a position to give you a good bargain and will meet you fairly upon any reasonable proposition. I wish to add that in case we conclude an agreement for that tract of land, those now residing thereon may take allotments where they now reside, or they may abandon those locations and remove within the diminished reservation, which latter course I would regard much the better for them, in which event a provision would be made in the agreement allowing them a fair price for the improvements that they would thus be obliged to leave on the portion ceded.

I have now explained the object of my presence here at this time and any of you desiring to speak I will be glad to listen to you, but if you desire time to consider the matter we will adjourn for that purpose. I am here to treat with you for the tract of land I have described, and will not hurry you in your deliberations, but will give you all the time you need to discuss the matter among yourselves. If you are not ready to reply now, I will hold myself in readiness to respond to your call and will meet you at any time you notify me to appear to receive your reply, or answer any questions regarding the matter which you may wish to know.

I will now hear anything you wish to say, or we will adjourn for a time so as to give you an opportunity to consider the matter in council by yourselves, as having presented the matter for your consideration I am through for the present.

KOI BAY NO GIN. We have now heard you, what you came to see us for. These Red Lake Indians have now understood what your mission is. We do not propose to answer you just now, we want to hold a council here in this building.

Mr. McLAUGHLIN. Very well, we will adjourn, and I will hold myself in readiness respond to your call at any time you send for me. I will be at Spear's Hotel or at the agency office.

Council adjourned subject to call.

Council reconvened Tuesday evening, March 4, 1902, at 7.45 o'clock.

Mr. McLAUGHLIN. I am advised that you have sent for me, and I am ready to hear anything you have to say.

KOI BAY NO GIN. We have authorized Mays ko ko nay ay, one of our chiefs, to speak to you for us.

MAYS KO KO NAY AY. My friend, I will now tell you what all of us Indians here want me to say to you. The mission that you have come upon I don't mean to be contrary to. There are lots of matters behind that is blocking me, which the Government has done to me. When any official has been sent here to see me the talk they make to me is very nice and I have been cheated every time, and the Government is the one that has been sending these parties to me. I have been looking in that direction and expecting our wishes fulfilled and to receive what we have been promised. I know what has been promised me, and I know that the Government owes me considerable. I am still looking for those promises that the Government has made and expect them, and therefore I don't accept and we will not agree to what you propose. When the Government comes and hands me what has been promised me, and I know what the Government owes me, then I will consider. I am in fear now. The Government has caused me to be distrustful, and that is why your mission is a failure.

I now want to state one of the main matters that has blocked me. In dividing my property in four quarters the Government took away one-quarter of my property. All these Indians are of the same mind. We don't mean to be contrary. When I was in Washington year before last I called upon Senator Nelson and asked him who authorized the opening for settlement of some of my land, and told him that as he was there all the time he must know who authorized the opening of some of the lands and whether it was himself or the Government. He would not give me an answer. He simply walked out of the office without his hat. I am looking for an answer from the Department. We presented our grievances at Washington, and that is what I am looking for. This what I have said is the wish of all the Indians that are here. The Indians wish to make no agreement whatever until our matters are adjusted. When I was in Washington the Commissioner of Indian Affairs promised me \$27,000, but I have not got the \$27,000 yet. What is the matter that I do not get this \$27,000 that was promised me? Something more I want to say. When Hon. H. M. Rice came here and negotiated a treaty with us he promised us that we would get \$80 per capita of interest money from that treaty, the stipulation of the treaty he was making, and that for fifty years we would not have to take any allotments of land, and all these Indians that are here hold to that understanding. They don't want to take allotments. I reserved a piece of land; I reserved it for coming generations. This is all I want to say to you. In my talk we are just like one man, in that we are all of the same mind in these matters.

Mr. McLAUGHLIN. I want to ask you in relation to that \$27,000 that you say the Commissioner promised. What claim did that \$27,000 represent?

MAYS KO KO NAY AY. We went to the Commissioner of Indian Affairs, a different delegation from the other delegations, and we were told by him that we were to have \$27,000 for stumpage due us.

Mr. McLAUGHLIN. Now, you people seem to have gotten the matter of allotments somewhat confounded. I am not here to force allotments upon you people, although I know it would be for your own good. It would be well for you to take allotments. Each man would then have his own piece of land, and the improvements that he would place upon it would be his property alone. And while you people under your treaty are only entitled to 80 acres each, I could provide for you, in a new agreement, that you receive double that amount, men, women, and children; that is, in case we come to an agreement for the western portion of your reservation. I advise you to think of that well, for it will enable you to secure the very best land on the reservation, which can not be interfered with by anyone, and it is held in trust for twenty-five years.

Now, in regard to this piece of land that I have been talking to you about, it is a different proposition from any grievance that you are speaking of. I have known for some time past that your people had many grievances in relation to your dead-and-down timber, and that the matter is still unsettled, but there is no doubt but that will eventually be attended to and properly adjusted. That was a bill which was prepared in Congress and sent out to you for your ratification, and it is such as to be very difficult to interpret clearly and satisfactorily to the Indians, and at the same time meet with the requirements of the Treasury Department. Indians are naturally impatient and want all matters attended to too hurriedly, but you must bear in mind that this is a great country with an immense number of people to legislate for and a great many matters to be attended to, and it takes time to bring all things about. This is especially so with an agreement containing ambiguous expressions, that is, expressions that are difficult to understand where the same word may have two or more different meanings. The advantage in having simple, plain words in an agreement is therefore very great.

Now, any agreement that we may make for this tract of land, if we conclude an agreement, will be simple and plain and easily understood, and as there is only you people interested instead of all the Chippewa Indians of Minnesota, as in your last agreement, there would be no possibility of a misunderstanding in its interpretation or in carrying out its provisions. The difference in that treaty which Governor Rice presented here and my proposition is that his was enacted by Congress and sent here for your ratification without your having any say in its preparation, while you are a party to the agreement in my proposition. The agreement will be made on such terms as we shall agree upon, I representing the Government and you the Red Lake Chippewas. There is an old saying used by the whites that it requires two parties to make a bargain, and in justice to those interested both parties should have a voice in making the trade, and the Department, desiring to allow you people to have a say in this proposed agreement, has sent me here to talk with you and try and bargain with you for this piece of land. There are no people who cheerfully accept a bargain forced upon them against their will—something they have no voice in—and for that reason I have been sent here to present this matter and to consider it

with you and to talk it over until we arrive at an agreement, and I will reason with you and give you a fair and plain answer to all your questions.

I will say further that my negotiations with you people is for that piece of land, and I can not include any past grievances which you may have, but I would like to have you state fully and clearly what your grievances are and state the grounds upon which you base the same, and they will all appear in the minutes of our councils and will become a part of the printed document, if an agreement is entered into between us. While I can only guarantee and pledge my word for the truth of every statement that I will make regarding the negotiations that we are engaged upon for the western portion of your reservation, I promise to faithfully submit your grievances in my report. As for any agreement that we may enter into I know that it will be carried out to the letter, and as for the grievances that you speak of, I can only promise that I will do all that I can in presenting them properly, and if there is merit in them I have no doubt but that they will be adjusted in due time. Any agreement that we may enter into in regard to this tract of land will not in any way conflict with your claims; those claims will have the same status with the Department and with the Government no matter what the outcome of our negotiations in this matter may be; each stands on its own basis, and anything that there is right in, which, from what I have learned and heard, you may have in some of your claims, there is no doubt but that they will be adjusted in due time. On account of ambiguous wording in some agreements with Indians they puzzle the Department and are very difficult to explain.

Now, in considering this question in regard to the western portion of your reservation for its cession to the United States, we want to separate your other claims from that. Consider the one question at a time. Any agreement that we may enter into for these lands of the west portion of your reservation will in no way affect the claims that you speak of. Each of those individual claims will be considered and determined upon its own merits, and any agreement that we may enter into will contain a provision to that effect, which would be in words something after the form that I repeat: "That nothing in this agreement shall be construed to deprive the Indians of any benefits to which they are entitled under existing treaties or agreements."

You people are land poor. What I mean by that, you have a great deal more land than you have any use for, and you are also poor otherwise; you have very little home comforts. I am prepared to give you a good price for this land and pay it all in cash, not all at one time, as I don't think it would be to your best interest to pay it all at one time. I would have the agreement provide to pay you one large first payment, which first payment to be made within ninety days after the agreement would be ratified by Congress, and the remainder of the amount to be paid in ten annual installments, every man, woman, and child to receive equal shares. Upon reservations where they have good grazing lands I always prevail upon the Indians to take some stock, so that they may start in stock raising, but here you have not got the range for cattle that they have west of the Missouri River, and, therefore, cash is better for you.

I have not expected that we would come to an agreement right away, and I am not in the least disappointed at the talk of my friend here who speaks for you people, for the reason that I knew you had many things which you wish to present, and I am ready to hear about those claims and grievances that you wish to have placed before the Great Father's council. It would be something unusual, something away beyond the ordinary, for us to meet and separate the same day, that we would conclude an agreement at once, or that you would decline to entertain a proposition.

You people have been very good in coming here. This has been quite a representative gathering, and I hope that you will consider this matter fully and deliberate upon it for some time. The fact that you have sent for me to-night and given me your answer without asking any questions convinces me that you have not given this matter full consideration.

As I stated to you this afternoon, in my first talk, we met here as friends and we will discuss matters in a friendly spirit, and I hope we can agree; if we can not agree we will part as friends, so that should we ever meet again it will be as friends. That is the wish I have. I am speaking to you as a representative of the Government in this matter, and have very friendly interest in your welfare. So has the President of the United States, the Secretary of the Interior, and the Commissioner of Indian Affairs. They have your welfare at heart, but they are powerless to do all things. Congress makes the laws and the heads of the Departments execute them. The Secretary of the Interior, whose eyes, ears, and tongue I am in the Indian work that I am engaged upon, desires the cession by you of this tract of land, believing that it is for your best interests. The Secretary has sent me here to see you with my eyes and hear what you have to say with my ears, and tell you with my tongue the things

that we think are best for you, and I am convinced that it is best for you to dispose of that western portion of your reservation.

I have the gratification of having my reports almost invariably accepted by the Department, and whatever I represent or report to the Department the Secretary usually approves; and in the committees of Congress any representation that I make in regard to Indians on any particular matter that I have been a party to my statements are invariably taken without question. That is what I meant to-day when I said to you that I am in position to give you a good bargain, because I feel that I can give you a better price and more favorable conditions of payment than any other person could, with a reasonable certainty of approval and concurrence by Congress. Therefore, my friends, I don't want you to close your ears and say you won't listen to any proposition for that tract of land. I want to hear the objections you have to this proposition. Your principal objections are past grievances, alleging that past promises have not been fulfilled. This session, as I have told you, will in no way affect your old claims, but will strengthen them, for the reason that everything I say to you and everything you say to me here is being taken down by the stenographer and will become a part of the proceedings of our councils and of my report, and of the printed document if an agreement is concluded.

The 256,152 acres of your reservation which you do not need will amount to a large sum of money, and, as I said before, I am prepared to provide that the payment shall be in cash. It is a portion of your reservation that you have no use for. You don't need it; you have ample land without it, more than enough for you in the portion that will be reserved. You are deriving no revenue from the tract referred to. It is bringing you no returns, no benefits whatever, only a few of your people are living there and they are not prospering very well. The sale of that piece of land would provide for you old people in your declining years, and, as I said this afternoon, it would enable you young men to get a good start in life. I don't come here with a bill that has been enacted in Congress without your being consulted as a party to it or your voice being heard when it was prepared, but I come here to try and agree with you upon the price of the land and the manner of payment, so that you are a party to the trade.

My friends, I am very much pleased that you have sent for me this evening, that we might have another talk over it, and that I have been able to explain some matters that didn't occur to me this afternoon. You have been very patient in remaining here all this afternoon in this close room, and listening patiently to everything that I had to say, and as it is getting pretty late I feel that we ought to adjourn for this evening and meet again to-morrow morning. In the meantime you people can talk over this proposed session and be prepared to-morrow to state the grievances that are uppermost in your minds so that it may appear in the minutes of our councils. And even if we make no agreement your statements will appear in my report and be submitted by me to the Department. The longer that I am with you the more I am learning of your business matters and of promises that have been made to you in the past which you say remain unfulfilled. I don't wish to press you, I don't wish to hurry you, neither do I wish you to hurry me, I desire ample time to explain matters fully so that you may understand me clearly. But I do wish you to remain here to-night so that you may discuss among yourselves the matters you wish to submit to me to-morrow. I mean the grievances you have been referring to. Will you do so?

ANSWER. Yes; we will be here.

Mr. McLAUGHLIN. I thank you very much for your attention and the patience you have had, and to-morrow I will listen to you patiently, and I hope that you will consider what we have been talking about to-night. After thinking the matter over myself I might have something more to say to you to-morrow. If you have nothing further to say to-night we will adjourn until to-morrow morning at 10 o'clock.

I wish to say in case you run short of provisions at any time, notify Mr. Graves, who will see that you receive what you need. I was advised by the Indian Commissioner that you would be subsisted while we were in council. In case the supplies should run short here at the agency, Mr. Sullivan, who I think will return to-morrow night, will doubtless be able to purchase provisions outside.

If you have nothing further to say we will now adjourn until to-morrow morning.
Meeting adjourned at 10 p. m.

Council reconvened March 6, 1902, 2 p. m.

Mr. McLAUGHLIN. My friends, you have notified me that you are ready to meet me. We have assembled in council and I am ready to hear what you may have to say.

KOI BAY NO GIN. We have assembled here again to come to an understanding. Now we meet here as friends. As long as we are here together we want to be as

friends, and after our councils are over we want to be friends. Mr. J. C. Roy is the man we have appointed to read the matters that we want to present to you.

J. C. Roy (reading; Peter Graves interpreting). In the treaty that we made in 1863 we ceded about 9,500,000 acres of agricultural land and we also ceded some pine land. The land that was ceded by that treaty we only got about 4 cents an acre for the whole; that is what we have received for it up to the present time; that is what the Indians received from the lands ceded by that treaty. This is one of the grievances in which we think there has been wrong done to us. The understanding we had in that treaty was that the reservation line was to begin at a point on the international boundary line at the Lake of the Woods on the western shore, and from thence to the head of Thief River; thence down the main channel of the said Thief River to its mouth on the Red Lake River; thence from the mouth of the Thief River direct south to the Wild Rice River; thence along the Wild Rice River to its head; thence from the head of the Wild Rice River along a creek which flows in from the east; thence from the source of this creek in a direct line to Portage Lake; thence from the east end of Portage Lake direct to the Mississippi River; thence following the main channel of the Mississippi River to Lake Bemidji; thence direct from the south side of Lake Bemidji, where the Mississippi River runs into Lake Bemidji, in a direct line north from the north end of Lake Bemidji; thence in a direct line north to Little Birch Lake; thence from Little Birch Lake in a direct line to the island in Black Duck Lake; thence from the said island north to the high ridge; thence from the termination of said high ridge in a direct line to the source of Muddy Creek; thence from the source of Muddy Creek in a direct line to the source of Black River; thence along the said Black River down to the Rainy River; thence following the main channel of the Rainy River to the international boundary line, and thence west along the international boundary line to the place of beginning.

That is how all of the old men understood the reservation line when they made the treaty. This was our understanding, and the line was entirely different when made by the whites.

What we want to ask you about is this: Who ceded the 13 townships on the southwest of the reservation, in Polk County, at and around Fosston; who ceded that and who got the benefit for it? Was there any Indian got any benefit for those 13 townships? Who authorized the opening of those 13 townships? Whether the Mississippi Indians got any benefit, or the Red Lake, Pillagers, or any other Indians? I want to state to you all we know of this. We heard it was in three different ways. We understand that these farmers took this land, and then the pine men, and then again the Mississippi Indians.

How did Mr. R. B. Walker get possession of the pine lands along the southern boundary line within the reservation? Who gave authority to cut this pine timber? Who was it that got the benefit of this timber that was cut? And who was it that moved the line from this Little Birch Lake to Turtle Lake, that is called Little Turtle Lake by the whites? For a number of years pine was cut on the northern portion of our reservation by Canadian trespassers. We heard that the United States arrested these trespassers and had them prosecuted for cutting timber along the northern boundary line, and we have never heard if the Government had gotten any money from these trespassers. If the Government has got any money from these trespassers, we claim the money?

For the last twenty years there has been fishing going on along the lake shore inside our reservation in the Lake of the Woods by the whites, and we understand that the State of Minnesota was getting money out of those fisheries inside of our lines. If there is any money derived from those fisheries, we Indians claim it.

We were given to understand by the treaty of 1863 that we were to get annuity cash payments for fifteen years and we got cash payments for only fourteen years.

These are the grievances occurring out of our treaty of 1863.

Our understanding of the treaty of 1889 was that the diminished reservation line was to begin at the mouth of Thief River where it empties into Red Lake River thence following the old reservation line into Clearwater River; thence following up the Clearwater River to intersect a line commencing at Big Marsh and directly west to the Clearwater River; thence from the Big Marsh in a southeasterly direction to Rush Lake, thence from Rush Lake in an easterly direction to intersect in a direct line a point 1 mile from the most easterly extremity of Lower Red Lake, and from the point 1 mile from the most easterly point of Lower Red Lake in a direct line due north to a point 1 mile south of the south shore of the Upper Red Lake; thence east 1 mile clear around the east end of Upper Red Lake, where it would intersect a line commencing at the Little Creek branching off from Thief River, about 7 miles from the mouth of Thief River.

The understanding of the treaty of 1889 was that we were to derive \$1.25 per acre for all the agricultural lands that were ceded to the United States. And we understand that there has not been a dollar paid for these lands yet. And we understand

that we were to derive \$3 per thousand feet for all of the pine that was sold on the ceded reservation, and we understand that there has been over 600,000,000 feet of pine cut from the reservation that we ceded. We find that we haven't derived more than 65 cents per thousand feet for all this timber, calculating at 600,000,000. And there is lots of pine left standing that has not been cut on the lands that we ceded to the United States. And we were given to understand that we had the use of any ceded land that was not occupied by settlers, to be used as our own. And we furthermore reserved the privilege of using that as our hunting grounds as in former years. And we were given to understand that the Secretary of the Interior was to appoint men, good and honest, to estimate the timber upon the land that was ceded to the United States.

Now for an example of their estimating this timber. There was one lumber concern, Shevlin & Carpenter, bought 70,000,000 feet of this timber as estimated by these estimators, and when the lumber concern who bought it contracted to have this timber cut there was 300,000,000 feet contracted for and cut out of the 70,000,000 feet estimated. And there was another man, Bob McGinn, bought 80 acres of pine land that was estimated at 300,000 feet of timber standing on it, and he cut this timber, which scaled 1,100,000 feet, cut off of this land, that the estimators reported as only 300,000 feet. Another man, named Carter, took a homestead of 80 acres which had been classified as agricultural land, and he cut off of one 40 of this 80 acres over 800,000 feet of pine, which was classified as agricultural land.

One of our people, Ke me weum, stopped with the estimating corps at Ten Mile Lake for three days. The day he arrived at their camp it was snowing. He didn't see any of the men go out any farther than they had to go for their own purposes. On the third day, in the morning, one of them went out with him and walked out to about 200 feet from their camp, and when he came to a pine tree he sized the tree up and estimated how much timber there was in it and took out his little book and made notes of the same and walked back to camp. That was the amount of their work for three days that Je me weum was in camp with them. At another time he camped with the estimators at the mouth of Black Duck River, and while he was there in camp with them, an entire week, he didn't see any of them go out to do any work all that time.

Ah je dum stopped with an estimating crew down at Four Legged Lake. In the morning he stopped and waited for the estimating crew to move out to do some work. He stayed in the camp there waiting until 11 o'clock, and he got tired and went away before they got out. They were asleep yet when he left.

The school sections have been unpaid, and over ten years have elapsed since our 1889 agreement, and a part of the pine that was standing on these school sections has been cut off, and nobody seems to know who has cut the timber off. After everything was accepted and ratified in our treaty of 1889, we were promised that we would not be bothered to dispose of any more of our diminished reservation, and we were given to understand that after the expiration of fifty years the money that was derived from the ceded lands was to be paid over to the Chippewas of Minnesota.

Another thing that was done here since that treaty of 1889, over twelve years ago, one of the leading hired men, Ne guan ah quod, by name, of the Cross Lakers, asked the commissioners that came up to negotiate with the Chippewas for some pine timber lands, 5 miles above the mouth of Little Shotley Brook, and he was granted his request before the council. This we always thought and believed was within our treaty, and we find that they are cutting the timber off of this tract of land this winter.

On the last trip that the Red Lake Indians made to Washington they were told that there was \$27,000 accumulated out of stumpage money that had been cut in years gone by. They were told that this money belonged to them. They said we could have this money any time we asked for it. We have asked for this money twice now since that promise at Washington, and we want this money paid to us now. We want it paid to us equally in cash, every man, woman, and child.

Regarding the depredations committed by the Red Lake Indians and the Turtle Mountain Indians at the mouth of the Red Lake River many years ago, we want the Turtle Mountain Indians to repay one-third of that amount. The Red Lake Indians had to pay all at that time. The Red Lake Indians paid it all and the Turtle Mountain Indians did not pay anything.

Another thing that I want to call your attention to. There has been lots of timber thieves caught stealing timber off of both the ceded and the diminished portions of our reservation, and we have found out that these trespassers have paid for the timber that they have stolen, and what moneys that these trespassers have paid in we claim to be our own money.

Mr. Rice, in negotiating the treaty of 1889, promised the Indians that there would be only two steamboats on the lake and river; one would run between here and

Thief River Falls and the other would tow logs on the lake, and that any Indian who wanted to ride on that boat could do so without paying his fare. He could ride between here and Thief River Falls, and the other boat would be used for towing logs on the lake. All the Indians that lived down at Thief River Falls could come up here after their annuity payments and ride on the boats and would not have to pay any money in going from here to their homes, riding on the steamboats. And there is lots of boats on the lake and the river now running between here and Thief River Falls.

ME CAH KE BE NAIS. Well, my friend, you say that you are an inspector. I understand that you are in a position to help us; what we present to you about our grievances is our wishes. Well, my friend, what we have said to you is what we have been thinking about, and any white man that comes to us we shall never step over what we have presented to you.

Now we are ready to hear you, all that you have to say that you come to see us for. We want you first to give us some answer in regard to these grievances that we have placed before you.

Mr. McLAUGHLIN. My friends, I am very much pleased with this statement that you have presented to me. I feel that many of your statements are well founded, and it is even known by the Department officials that you were very badly treated by the estimators that were sent out to appraise your land. And I am very much pleased that you have given me in regular order and in concise form the different grievances and claims that you have. It will enable me to report and present them to the Department officials in the exact words that you have given them to me, and anything that I can do toward helping you in the matter I will do it with pleasure. Now there are some matters that I wish to speak to you of, things that I noted down as your statements were being made.

The first is that of the 13 townships which you speak of as having been opened in Polk County, near where Fosston is; that is something that I am not familiar with. But the stenographer's notes here will bring it to my attention, and when I reach Washington I shall ascertain how that land came to be opened, and have you advised.

Now, as to your treaty line that you speak of; I notice that it is given by the agreement of 1863 as commencing at the point you stated and runs through to the Wild Rice River, and ceded all the lands lying west of that line through to the Red River; also the valley of the Red River over in North Dakota.

In regard to your timber that you claim was cut on this side of your boundary line within your reservation, I shall also ascertain what was done with the proceeds. I have the reputation of telling the Indians the truth, even if my words are sometimes unpleasant to hear, as it is better that they know the truth; better than honeyed words—more pleasing to the ear, but not true, and misleading—which eventually brings disappointment.

In regard to the navigation of your streams and lakes. The agreement that you made in 1889 clearly provides that all waterways within the reservation therein described are to be free for commercial purposes to all citizens of the United States. Nothing is said about number of boats, whether there is to be 1 boat, 2 boats, 50 boats or 100 boats. The waters are free to navigation. Free transportation on the boats that are navigating these streams should have been provided in the agreement to entitle you to it, but there is no such provision. If the commission negotiating with you promised you free transportation, they exceeded their authority. I have read the agreement carefully, and there is no mention of such in the act that you accepted. There is nothing binding on the United States except what appears in the agreement that is signed. I always make it a rule to make plain and truthful statements to the Indians when negotiating with them, for the reason that it is very wrong to tell Indians that which it is impossible to do for him or to make any promise that can not be fulfilled.

Any promise that I make to you here is taken down in shorthand, and after it is transcribed I will leave a copy of the proceedings of our councils with you, and you will learn later on that every word that I have said to you will reach the Department and receive attention. And I promise you that every statement that you have made here with regard to your grievances and claims will appear in my report in the order that you have presented them, and I will make a special report in reference to them, separate from my regular report, in case we enter into an agreement for the proposed session, which special report will be in reference to your claims as stated to me, and I will follow them and see that they receive the attention of the Department. I expect to return to Washington from here and will make it a special point to call these things up whilst there. I am well aware that the matters you have been speaking of are somewhat complex; that is, they are puzzling; as I stated the other day,

they are perplexing, and it is the desire of the Department to have them straightened out as soon as possible, and your talk with me here regarding them will aid and assist the officials in bringing about an adjustment of the matter.

This paper that I have here in my hand is the proceedings of our last council, and I will simply repeat a portion of what I said to you during our last meeting in relation to these claims: "Any agreement that we may enter into for the western portion of your reservation will in no way affect the claims that you speak of, other than to aid in bringing them before the Department more forcibly." Each of those individual claims that you speak of will be settled and determined upon its own merits, and any agreement that we may enter into for a portion of your reservation will contain a provision to that effect, by incorporating in the agreement words something to this effect: "That nothing in this agreement shall be construed to deprive the Indians of any benefits to which they are entitled under existing treaties or agreements."

The cession of the western portion of your reservation is an independent proposition and entirely different from what your last agreement was. This is something in which you people of Red Lake Agency alone have any interest: that is, provided you take advantage of my presence here and my readiness to meet you on common grounds and a fair proposition, and you don't want to keep your ears closed so as not to hear what I am going to say. You have an opportunity now to protect yourselves in a way that there are no other Indians in the country that can be better protected. Your agreement of 1889 does not protect you as a tribe and as an agency fully. There has been a certain tract of land described, and certain boundary lines within which you may take allotments, and under that agreement, which this book contains [indicating], the Government could at any time order allotments made to you, and all the surplus lands would be declared open for settlement under the same conditions that your other ceded lands are; that is, the pine-land portions that were appraised and sold for less than their appraised value, and the agricultural land opened to settlement under the homestead acts at \$1.25 per acre.

I am in a position at this time, having been sent here by the Secretary of the Interior, to negotiate with you, to make a bargain that will protect you and establish your undisputed right to the possession of this reservation, and no other Indians would have rights to the proceeds of this reservation but yourselves, while under the act of 1889 the surplus lands of this reservation, not required for allotments for yourselves and your families, may be thrown open to settlement, in which case every Chippewa Indian of Minnesota would have a share of the proceeds arising therefrom. In case we conclude the agreement that we are talking about for this tract of land of 256,152 acres, all of the proceeds of that tract goes entirely to the Indians of the Red Lake Agency. It would be so provided in the agreement. Another clause will provide that the remaining portion, after that is ceded, will belong to the Indians of the Red Lake Agency alone. You can see the way your lands have gone and the proceeds of the lands that you have ceded. There are too many persons of different agencies interested in it. Your present condition is unsatisfactory and tenure uncertain.

Bear in mind that I am talking to you of the cession of this piece on the western side, and I assure you that you would still retain your interests in the ceded lands that were disposed of by that cession of 1889, and that by entering into an agreement for this piece of land you forfeit no rights to those claims that you have presented to me to-day. They will be adjudicated regardless of any agreement we may conclude, and each will be determined upon its merits, and you will each receive your proportionate share of the money that has been derived, and will be derived, from the land ceded in 1889. Now, my friends, in the proposition that I make to you, you have nothing to lose and a great deal to gain. You will lose none of the proceeds of the ceded portion that is still unpaid, and if anything can be gotten out of the claims you present it will aid in having it brought about. You gain a very important matter by securing yourselves in your reservation, which will then remain intact, and I am prepared to allow you a very liberal price for that tract of land.

My friends, I told you the other day that the President of the United States, the Secretary of the Interior, and the Commissioner of Indian Affairs have your interests at heart and the interest of all the Indians, but that they are powerless to stop the tide of emigration and stop the opening up of the surplus lands of Indian reservations. All persons connected with the Department of the Interior, having charge of the Indians, are very desirous that I conclude an agreement with you for that tract of land, so that you may thus secure the residue that will be left, that is your reduced reservation. As I told you the other day, the entire reservation, as defined by that agreement of 1889, contains about 800,000 acres of land, the cession of that western portion which we desire would leave you about 544,000 acres, which would allow about 400 acres for every man, woman, and child belonging to your reservation.

The only object in the past for Indians to have large tracts of land was the advantage of having hunting grounds, but game is not only steadily but rapidly disappearing. When I first went among the Indians west of the Missouri River the plains were covered with buffalo. To-day there is not a buffalo in the country except a few that are in parks owned by cities and private individuals. The bear, otter, beaver, fox, and even the wolf are disappearing from the country. The people are very fortunate here in having a magnificent lake, which affords you a great many fish, but in a few years more there will be no game in the country. Therefore this tract of land that I ask you to cede is of little value to you as it is; that is, you derive very little benefit from it at the present time. The game will soon disappear and there is nothing there that you can realize anything from except to locate upon it and cultivate the land, but you have a much better country for your homes right here, within the proposed diminished reservation than you would out there, and you would be very much happier to remain here. You have a big lake to procure fish from and dense woods to hunt in near your home, while the tract that we ask you to cede must be cultivated to produce anything.

A reduction of your reservation to a reasonable area, such as a cession of that tract would leave you, would be comparatively safe. You would not be asked for any additional cession in the future—at least, not in the lifetime of some of you old people whom I see before me—and after the young men grow up and find that they have more land than they need they may offer to dispose of it, but that is in the distant future. With your reservation remaining as it is without reducing it by the cession of that western portion, you can rest assured that it will be opened up to settlement without your being consulted. It may not be this year, it may not be next year, it may not be year after next, but it is sure to come within a few years. The growth of this country is such that there is a great rush for land. More land is needed for homes for settlers, and the Department that has charge of the Indian affairs is powerless to prevent its being opened, as public sentiment demands it. And the public, through their members in Congress, their Senators and Representatives, demand that where Indians have more land than they require for their own use that they be paid a reasonable price for it and open it to settlement. That is why I say the President, the Secretary of the Interior, and the Commissioner of Indian Affairs are powerless to prevent it.

You are now in a position to protect yourselves in a way that very few Indians are; also to receive a large per capita payment for years to come. And if we agree upon a price for the land, there is no question but that we can agree upon the terms—that is, for the number of years that the payments shall continue. There are a number of you people before me that are getting old like myself, and by having something to provide for your declining years—the next ten years—would be a great benefit not only to yourselves, but to your families. Now, I want to have these notes prepared and have them reduced to writing so that I may read over carefully the claims that you have presented this afternoon. While I am having the notes transcribed I wish you would consider this matter in regard to the cession of that piece of land that I have spoken to you about. You have been very patient and have remained here under trying circumstances; the room is very crowded, and it is not the most desirable place for so many to be huddled together; but this is a matter to you, my friends, which is of sufficient importance to have you remain here a week, if necessary, and, as I said to you the other day, you don't want to close your eyes and say you won't look at the proposition, nor close your ears and say you won't listen to it, but you should consider the matter well and look at it from all sides.

Now, I have anticipated the continuance of this council, and I have procured two quarters of beef, which will be a change of rations for you this evening. I want you to remain here and discuss this matter fully, and from all sides, and meet me tomorrow at 10 o'clock; by that time I will have these notes prepared and have studied them over carefully.

I am very much pleased with our council this afternoon, and we will adjourn until to-morrow morning at 10 o'clock. I wish to add that I am talking now to the people of Red Lake Agency, and you are the only persons that are interested in this matter, and I don't wish you to be influenced or prejudiced in this matter by persons who don't belong to this reservation. It is to the interest of the Mississippi Chippewas, and those of Leech Lake and Cass Lake to influence you against consenting to any cession of lands in order to have you reject this proposition. If the lands were opened under the act of 1889 the Chippewas of Minnesota would all share in the benefit of these lands with you, and that being the fact they very naturally try to influence you against entering into a new agreement which would exclude them.

I know that you have received letters from parties advising against any cession.

Before I left Washington I learned that there were letters coming out here telling you not to consider any proposition presented for the cession of any portion of your reservation. Those people are not your friends in this matter. They have a selfish object in view, something in the back of that that you don't see. They want to get your lands opened under the act of 1889, by which the surplus money will all go into the common fund, and they receive a portion of the proceeds; but the proposition that I offer you is for you alone; you are the only ones that will get any benefit from it.

We will now adjourn until to-morrow.

Council adjourned at 4.45 p. m.

Council reconvened Friday, March 7, 1902, 2 p. m., Charles Morrison interpreting.

Mr. McLAUGHLIN. Well, my friends, we meet here again. You have sent for me to give you answer. I am now ready to listen to anything that you have to say to me.

ME ZHAH KE BE NAIS. My friend, you told us that you are an Indian inspector. We want to tell you that we are going to meet you as friends. We have put on paper all that the Red Lake Indians want to say to you. Now we will state all that was put down in writing by us.

P. C. ROY (reading). The Red Lake Indians omitted some of their claims in the last session of our councils, in regard to the treaty of 1869. They are the following: The townships that are in question that we want to speak to you about is township 159, range 34.

There are people who took homesteads on this land. There is a homesteader, that took a homestead, by the name of Katie McCarthy, and the estimate of her homestead was that it contained 1,200,000 feet of standing pine.

Another man by the name of Olaf Thompson has got a homestead in the same township, same range, that contains 250,000 feet of standing pine on his homestead.

Another man by the name of Tom Carey has a homestead in the same township, same range, that contains 250,000 feet of standing pine.

Another man, Levi White by name, has got a homestead in the same township, same range, that contains 500,000 feet of standing pine.

There was another man who took a homestead in the same township, same range, Fred Sibley by name, that contains 800,000 feet of standing pine.

Another man that took a homestead in the same township and range, Charles Louis Hemming, and his homestead contains 1,500,000 feet of standing pine.

Another man, by the name of Samuel F. Beals, has got a homestead in the same township and range that contains 600,000 feet of standing pine.

There are also 15 more homesteaders in the same township that have pine standing on their homesteads. Their land contains all the way from 150,000 to 200,000 feet of standing pine on each homestead.

There is another township also—township 150, range 33—where there are 8 homesteaders located in the same town, and the aggregate of those 8 homesteaders is over 2,700,000 feet of standing pine on their claims.

There is another township—township 149, range 34. There are 55 homesteads taken in the said township, and they contain all the way from 150,000 to 1,000,000 feet of standing pine on each homestead.

In township 149 of range 33 there are 27 homesteads taken. That township contains about the same amount of timber; that is, each homestead has all the way from 150,000 to 1,000,000 feet of standing pine to each claim.

There were also some homesteads in the Battle River country that were classed as agricultural land, that estimated about 20,000,000 feet of pine on said homesteads.

There is another place, called Shotley Brook, where there are homesteads taken, all of which had pine on them; but we only know of the amount that stood on three of said claims.

There was a man named Cowan who had a claim in that section of country that had 1,800,000 feet of pine standing on his homestead.

In that same section of country another man took a homestead, Dan Shaw by name, and there was 1,300,000 feet of standing pine on his claim.

There is another man who took a homestead in the same district, Pat Milan by name, that got over 2,000,000 feet of pine from it.

All these that we have mentioned as having contained so much pine timber were classed by the appraisers as agricultural lands and were thus secured by the settlers at only \$1.25 per acre.

This is all that we can put down on paper. It would take us two days, perhaps more, to figure up and state all the cases of like character. The claims we speak of were all upon the ceded Red Lake Reservation.

There is something that we want to ask you about what you said to us day before yesterday. The Red Lake Indians understood you to say that they owned simply half of their reservation and that the whites owned the other half, and this is a

question that we want to place before you, and we would like to find out the reason our Great Father takes in stepping on some of his own promises. What step has the Government taken to base its rights for a claim to our reservation? That is what the Red Lake Indians want you to make plain so that they can distinctly understand.

In our councils last night we made up our minds fully to place before you to-day in this session the minds of the Chippewas of Red Lake Reservation in regard to your visit here among us. The western portion of our reservation is the most valuable piece of property that our reservation contains. The reason we think that this is the most valuable piece of property we have is because there is no other land that we can call good farming land. In the course of ten years there will hardly be a standing pine tree to be seen in the State of Minnesota, also the game and fur will be very scarce in the course of ten years. It is all that the Red Lake Indians get their livelihood from, and after the game is all gone out of the country, all the fur, we don't know what we are going to live upon.

We are sorry to state that we don't know of anybody that we can place any confidence in to help us out in our troubles, although we are wards of the Government and the Great Father looks upon us as his children. You can easily see for yourself from the statement that we have placed before you what our treatment has been from former treaties. This is why we are obliged to take this stand: We think that it is best to protect the rising generations. We are told that we are looked after and protected by the Great Father as children, and we therefore mean to touch upon the tender part of his heart. That is why we have placed before you our grievances growing out of the past treaties, and we want our past grievances adjusted, at least some of them. And we want to tell you that our leading men of the Red Lake Reservation have made up their minds that they are not willing to pledge their words for the cession of the lands that you have been sent here to treat for. All that we can say is that we want our Great Father to adjust our past grievances before we negotiate any more treaties with him. We have also heard on the outside that you are going to offer us \$2.50 per acre for the western portion of our reservation. And we want to state to you the way we look at this—just like if we were going to buy money from you, all the money you had, and was going to offer you 12½ cents for every dollar that you had. If the leading men of the reservation consented to let any of their land go, they would like to have the right to place their own price on it.

SHAH WEUM AH CUM IG ISH KUNG. Well, my friend, you see that the room is full of Red Lake Indians. All of the Indians that are in this room, that you see here, say as it is written in this paper that has been read to you.

KAY GAY GAH BOW OINCE. Now, my friend, I am telling you that in your visit you make me. I have said all that I will say before you. What I have said now ends our councils about the land that you have asked us for.

Mr. McLAUGHLIN. My friends, you have asked me a question. You desire me to explain the status of Indian reservations. I explained that very carefully, and, as I thought, very plainly, at our first council, but I will state it again, so that it will be clear to you.

The title to Indian lands, Indian reservations, not only this Red Lake Reservation, but all other Indian reservations in the United States—the title of the Indian is simply the right of occupancy—that is, to use it—and the same right passes down to his children, but they can not dispose of the land to any person other than the United States. That is become of sovereign right, the general right in the United States Government in all the country. The Government don't want to take your land from you for nothing. There is no country on the face of the globe that has treated the people found in the country when the country was discovered, or taken by conquest, as our Government has treated the people found in the United States of America. All other nations, when they discovered a new country and conquered the people, have simply let them retain their homes; they have never given them large tracts of land nor treated them as a sovereign nation.

When you drove the Sioux out of portions of the country that you now occupy, you didn't give them a reservation within its borders. When the Sioux drove the weaker tribes out of that portion of the country west of the Missouri River they did not give them any land. But the United States have been very liberal, and have given every tribe of Indians homes on the land acquired by conquest or by purchase. There was set apart for each tribe rich tracts of country called reservations, over which the Indians have absolute control, and no white persons are allowed to come upon it without authority of the Government. And it has been the practice of the Government, from its first establishment, to treat with the Indians for any portion of their reservations that is desired to have opened up to settlement, and when the demand for more land is heard near any reservation, requiring the opening of land that is not needed by the Indians, treaties have always been negotiated with the

Indians for same. That was done to obtain what was called extinguishment of the Indian title to the tract of land negotiated for. This for the reason that under our policy of treating with the Indians, the Government could not give a patent with clear title to that portion of land to any person without such an agreement with the Indians to extinguish the Indian title; otherwise there would be a cloud on the title. Therefore I said, and I want you to understand, that all the territory in the United States is the property of the United States. The land in the Indian reservations, the military reservations, and all Government reservations are properties of the United States in a certain sense.

The Indian reservations are reserved for the Indians to occupy—that is, it is their land so long as they live, and so long as their children live after them—but they can not dispose of it. It is simply the right of occupancy. But, as I told you the other day, and as you will understand, the demand for land is increasing in this country. As the population increases lands become scarcer, and the more land is required. And when I say the Government in this respect, I mean the people; all the people of the United States are the Government. They elect members to represent them in Congress, and those members make the laws and represent the people, who are a part of the Government, and the demand of the people of the country is so great for more land that the representatives in Congress are obliged to listen to them. And, remember, as I told you the other day, that Congress enacts the laws and the President and the heads of departments execute them, but they can not do any more than execute the laws that are enacted by Congress. Now, I hope that I have made this question of Indian title to land understood by you.

I will say that the statements that you have made here to-day in conjunction with those that you made yesterday please me very much. They have been stated in very plain manner. As I stated to you yesterday, I fully believe that there is merit in many of your claims that you have presented, and I promise you, as I did yesterday that they will be forwarded by me and submitted to the Department with strong recommendations for action as promptly as possible.

I will say, my friends, in regard to the matter of the boundary lines as described by you, the boundary lines are fully defined by the treaties, and whatever they are in the treaties, are the only lines that will be considered. But I will present your claims just as you have submitted them to me, and I will report strongly upon them when I reach Washington, and will follow them up and have you notified regarding them. That is all I can do regarding the claims that you have presented.

Now, my friends, to return to the chief object of my visit here, which is the cession of the western portion of your reservation, I will speak to you very plainly. You have been living under the act of 1889 for over ten years past and you know how unsatisfactory it has been to you. And it is the only legislation now existing by which you are governed in regard to your land matters. Now, do you wish to continue under this act, or do you desire to be relieved from it by entering into a new agreement with me for the cession of this western portion of your reservation. This is of such great importance to you that you should be very particular in rendering your decision. You Red Lake Chippewas have always been a law-abiding people and have a very good name throughout the country, in consequence of which you have the sympathy of the Department officials; one and all regret your status under the present act.

There is just one of two things for you people to decide, the outcome of which will be with yourselves. Now, remember my friends, I am speaking to you from my heart as a friend. It is simply the truth, and I want you to take it as coming from a friend and one that has the welfare of the Chippewa Indians at heart. If you allow things to go on as they are, within a very short time an order will be issued for you people to take allotments. You will then have an opportunity to select allotments, and if you do not take them they will be allotted to you, and what lands remain after your allotments have been made will be opened to settlement under the act of 1889, for which you will receive \$1.25 per acre for your agricultural land, and should there be any pine lands you will receive for them the price provided by that act. As soon as that is accomplished the white men will flock into the country as thick as mosquitoes, and if you are prepared to meet that condition well and good. I am simply telling you what the outcome will be.

I am now going to make you an offer for your land. No person was authorized to speak for me as to the price I was going to offer you for this tract of land. No one knew my mind regarding it. Before making my offer I want to explain the price of land—the different classes of land. There is what is called a minimum price and a double minimum price. The minimum price is \$1.25 per acre, and that is for land that is outside of railroad limits. The double minimum price is \$2.50 per acre, and that is for land that is within railroad limits. That is the Government

price for land—what the Government charges the white man who files upon such lands—and if secured under the homestead law, which requires five years' residence and certain improvements, they are free to the homesteader.

Now, my friends, the offer that I am going to make you is the largest offer that I ever made Indians for any lands, and I have made every agreement in the past six years with the Indians of the United States, except two. Remember, the lands that I am going to make you an offer for do not contain any pine timber; they are essentially agricultural lands. Those lands, if owned out and out by the Government—that is, with full title in the Government—they would be sold for \$1.25 per acre to actual settlers. Now, I am going to offer you three times that much. I am going to offer you \$3.75 per acre, which means that you will receive \$960,670 for that tract, of which amount \$260,670 will be a cash per capita payment within ninety days after the agreement is ratified by Congress, and \$70,000 a year for ten years thereafter. There are 1,332 Indians now belonging on your reservation, but, calculating that births will increase that number to 1,340, it would be \$195 for each man, woman, and child for the first payment. A family of five persons would thus receive \$975 for the first payment, and the ten annual payments of \$70,000 each would give every man, woman, and child a little over \$52 each year for ten years.

My friends, when I left Washington, it was generally believed that I could procure those lands for about \$2.50 per acre, but I came through the tract and observed it closely, and have also made inquiry regarding the value of land in that section of country, and I have concluded to make you a good liberal offer in the beginning rather than to start at a low price and come up to that amount. That tract of land is not all good, but it is good average land and I regard it worth \$3.75 per acre, taken as a whole. I make this offer so that the Government is on record as having made you a very liberal offer for that tract of land, and I hope that you will see the wisdom of accepting it. If you reject this liberal offer with the payment all in cash, in eleven installments, which period of annual payments are believed to be best for you, you certainly will regret it.

If you would rather take your chances and receive only \$1.25 per acre for your surplus lands, such as the act of 1889 will give you, than to accept the \$3.75 per acre which I offer you, well and good; it is for you to determine.

My friends, when I was leaving Washington, just a few minutes before I started, I had a talk with the Commissioner of Indian Affairs in relation to this matter, and he told me to be liberal in the price allowed you for the land, and that he would approve it; that he was desirous of seeing you people of Red Lake Agency protected in every way possible. And he told me that I might have the agreement provide that you receive double the amount of land for allotments that you are entitled to under the present act. This is something which is well for you to consider. Under the present act it is doubtful whether you are entitled to allotments of pine lands; the rulings have been against it up to the present time, but I can provide for such in any agreement we may conclude. I am, however, not going to press the question of allotments upon you. I leave that entirely with yourselves, but I advise you to have an article incorporated in the agreement providing for the allotments of 160 acres each within your diminished reservation, as it will exist if we conclude an agreement.

With this offer that I make you for the land that we are negotiating for, \$960,670 in cash, I can provide for 160 acres each for your allotments within the reduced reservation if you so desire, and have the allotments either timber or agricultural land, it matters not which; it will be made to apply to either. However, if you do not want the matter of allotments touched upon, that can remain just as it is, but then you are only entitled under the law as it now stands to 80 acres each, and I can make provision giving each man, woman, and child 160 acres. And as I told you in our first council, I can provide for compensating those of you who now reside on that western tract, paying you for the improvement you have if you elect to come within the diminished reservation. You may remain where you are if you desire, but in the latter event you would have to take allotments there at once in order to hold your claims.

Now, my friends, I am here to try and have you understand this matter fully; it is the desire of the Department to protect you people. The cession of that piece of land under the agreement that I can prepare will provide for your protection upon the reduced reservation and will leave you people entirely independent of all other Chippewa Indians so far as your reservation is concerned and so far as this money is concerned, and at the same time you retain your share of the proceeds of the ceded land—that is, the lands ceded by the agreement of 1889. Now, it is for you to decide whether you want this protection that I offer you or take your chances under the act of January 14, 1889, whereby the proceeds of your surplus lands, after your allotments are made, will go into the common fund of the Chippewas of Minnesota, and

each receive a proportionate share, but my offer secures the proceeds of this cession to you Indians of Red Lake Reservation alone.

It is to the interest of the Indians of the other Chippewa agencies of Minnesota to have you reject this proposition so that these lands may be opened under the act of 1889, that they may thus share in the proceeds, and the selfishness of some of those people has been such as to try and prevent and discourage you in accepting any proposition or entering into an agreement for any of your lands.

I wish, my friends, that I could understand and speak the Chippewa Indian language as well as my friend the interpreter here. If I could I would remain with you here this evening in your councils and am confident that I could convince you of the wisdom of your accepting this proposition. The white people demand the land and the Department officials desire to help you and allow you the best condition possible, which is evidenced by what I have offered you. I am on record, and therefore the Department is on record, in the offer that I have made you of \$3.75 per acre, a very liberal offer; the highest offer I ever made for land. I never gave more than \$2.50 per acre for Indian reservation lands in any agreement that I have made, the most of them being for a great deal less.

Now, bear in mind when you are considering this that the offer that I have made you is a very liberal one. This offer will go before the Department and go before Congress, and they will see that it has been made to you; and I hope that you will not reject it. If it is accepted by you it may be a difficult matter to have it ratified, but I feel reasonably sure that it will meet the approval of the Secretary of the Interior and Commissioner of Indian Affairs, and also the committees of Congress—that is, the Senate and House Indian Committees. Now, my friends, I have given you something to consider. I have made you an offer. There is not a man in this room, looking into your faces, but I can see has sufficient intelligence, and interest in his own welfare and the welfare of his people and those of the rising generation, but desires to do what is for the best interests of all. And if you think it is for your best interest and the interests of your children and grandchildren and those coming after you to let the agreement of 1889 continue to govern your affairs, well and good; but if you think that this proposition that I have made you is best, then accept my offer.

In considering this offer remember very particularly that your agreement of 1889 gives you only \$1.25 per acre for all the agricultural land, and that the proceeds of the sale of your reservation within the boundary lines, all over what you require for allotments, will be divided among the whole of the Chippewa Indians of Minnesota. On the other hand my offer protects you in your reservation and gives you 160 acres of land each, in case you consent to take allotments, and gives you \$960,670 for you people of the Red Lake Reservation alone, which the other Chippewas have no interest whatever in.

My friends, I have endeavored to place this matter before you in its proper and true light. Every statement that I have made you here since our councils began has been absolutely true, and I defy any person to controvert any one of them. I hope you will see the advantage to yourselves and to your children, and those coming after you, to accept the proposition. If you reject it I feel that I have done my duty, and no blame can rest upon me or with the Government, whose representative I am in these negotiations.

As I said in my first council, and my friend Kay gay gah bow oince said the same yesterday, we meet as friends, and if we do not conclude an agreement we will part as friends.

You now have my proposition; it is for you to consider. The question is before you and I will be ready to hear your answer at any time. It is a matter that you should deliberate upon with great care; you should look at it from all sides before you come to a conclusion. While I am ready for your answer at any time, I would prefer that you take to-night to think it over. Discuss it among yourselves and give me your answer to-morrow. We will now adjourn until you send for me. I will be ready to meet you at any time you send for me. I would suggest that we place the hour of meeting to-morrow at the same time we met to-day. In the meantime consider my proposition and what I have said to you very carefully, and any time, be it to-night or early to-morrow morning, if you want to ask any question send for me and I will come.

I will not detain you much longer, and if you are short of provisions while you remain here in our negotiations call upon Mr. Graves, who will provide for your needs.

Meeting adjourned at 4.30 p. m.

Council reconvened Saturday, March 8, 2 p. m.

GAY BAY NO DIN. We would like one and all of the Red Lake Indians to understand what you have said in regard to these negotiations. One of our main spokesmen, who has been sick and not been in our councils heretofore, is here now and he wants to hear all that you have said to us and to speak to you and ask you a few questions.

Mr. McLAUGHLIN. It would be better for me to turn the typewritten minutes of our councils over to you and have the three interpreters remain here with you and explain each day's session. I will, however, state here for the benefit of those who have not been at all of our councils what my offer is. The tract of land that will be included in the cession, if we conclude an agreement, contains 256,152.28 acres. My offer is a definite lump sum—\$960,670—based upon the number of acres included in the cession calculated at \$3.75 per acre, and my suggestion was that the money be paid you in eleven payments, the first payment to be within ninety days after the agreement is ratified by Congress and the remainder in ten annual payments thereafter.

I stated that \$260,670 would be paid you in the first payment, and that it would leave \$700,000 to be divided into ten annual payments of \$70,000 each year for ten years. There are, according to the rolls of your agency, 1,332 Indians, men, women, and children, belonging on your reservation at the present time, and calculating upon eight additional for children that may be born, would make 1,340 persons, and for 1,340 persons it would be about \$195 for each man, woman, and child on the reservation for the first payment. The \$70,000 a year for ten years, divided among the same number of people, would give a little over \$52 per capita, it would be about \$52.20 a year for each man, woman, and child, each year, for ten years. Now, remember, I do not force this manner of payment upon you. That is for you to determine, if you would rather these payments to continue for fifteen or twenty years and have smaller payments each year, well and good. I only suggest this. It is for you to decide how you want it. If the chief who has been ill and unable to be present at our councils heretofore wishes to hear everything that has been said, I think the better way is as I have suggested. That is, take the minutes of our councils, which you people have a duplicate of, and have them read and explained by the three interpreters.

The matter is plainly presented there, and answers to all the questions propounded are given. I have the original of all our proceedings, which will be forwarded to the Department with my report and is in every particular the same as the copy you have. I have one copy for transmittal to the Department, and the other copy I turn over to you for reference. Now, it is for you to say whether you wish to have the interpreters explain them to you or not. I think it would be very well if you can take the time to do so. I will give you all the time that you need, because any agreement that we may enter into I wish you to understand fully and distinctly.

KAY GAY GAH BOW OINCE. My friend, it is very nice the way you have talked; it is a very good thing that everything that is said between us we are to distinctly understand, and to ask questions about the value of what you come to see us for. It is a very important matter what you come to see us about, and I am thinking over it very deeply. There is one question I want to ask you, and that is, Who was it that sent you here to see us?

Mr. McLAUGHLIN. The Secretary of the Interior, who is my direct superior. He represents the President of the United States in Indian matters.

KAY GAY GAH BOW OINCE. He gave you full authority?

Mr. McLAUGHLIN. Yes; full authority to negotiate an agreement with you people for the tract of land we have been talking about.

KAY GAY GAH BOW OINCE. Is there any authority given me that a proposition I make should be accepted?

Mr. McLAUGHLIN. That is what I am here to see you for, to discuss the matter with you. I have made you a proposition; you may make me a proposition. There are two parties to this trade; I represent the Government, who is one party; you Red Lake Indians are the other party.

KAY GAY GAH BOW OINCE. Well, my friend, the reason I ask you this, I have a good deal to say—lots of questions to ask. Are you positive that the proposition that I will ask you will be accepted?

Mr. McLAUGHLIN. I can tell better after I hear it. I couldn't tell until after I know what it is.

KAY GAY GAH BOW OINCE. I have sent two delegations to Washington. I sent them there to look after our matters. Our delegations to Washington came back here empty handed, scarcely anything to tell. This is what I want to understand. Maybe I have been doing wrong. My friend, there is another thing, I want to see

your written authority. I have never taken the pains to do as I am doing now when anybody has been sent here from Washington to see me. My friend, that is the reason that I have said that we must distinctly understand each other. Well, my friend, we now wish to see your authority to negotiate with us for our land, and these Indians will think it over.

Mr. McLAUGHLIN. I cheerfully comply with your request. Here is my letter of instructions, which I will have read and explained to you by the interpreters.

(Interpreters Graves and Roy read and explain inspector's instructions to the Indians.)

KAY GAY GAH BOW OINCE. I am very glad.

Mr. McLAUGHLIN. You see, my friends, that I want to have everything honest and straightforward, and I wish to say to you, as you may understand from the wording of my instructions which have been read to you, that large discretionary power is vested in me in these negotiations. I am simply directed therein to be fair to the Indians and just to the United States. The meaning of the words "fair to the Indians" is to give you a fair and reasonable price for your land and provide for manner of payments which will be the most conducive to your welfare. The meaning of the words "just to the United States" is, not to pay more than the land is worth and to have the agreement such as will meet the approval of Congress. The word "justice" also means protecting you in your just rights. As I told you heretofore, the people of the United States constitute the Government and you are part of the people of the United States.

Now you have the matter before you, my friends, and you certainly must understand it, because I have taken great pains to make it very clear to you. The lump sum, \$960,670, is based upon the number of acres included in the cession, at the rate of \$3.75 per acre. That makes the definite lump sum stated.

I have already said that any of you now located on that tract who desire to remain there may do so, and the price of the number of acres required for allotments for those electing to remain will be deducted from the lump sum offered. It would make that lump sum proportionately less. As a friend of the Indians, and having your best interests at heart, I would advise all to come within the reduced reservation. You can only protect yourselves on the ceded tract by taking allotments, and if you remain on that portion you must take your allotments at once. You then become full-fledged white men in every sense of the word, and you will have white men all around you. The only advantage that you will have over the white man is that your allotments will not be taxed for twenty-five years, during the trust period.

Now, my friends, you should understand the whole matter very clearly from the way I have explained it. If you have anything to say to me I will remain in council; if not, and you wish to consider this matter further, I will now leave the room and will return any time you desire to ask me any questions.

KAY BAY GAH BOW. Well, these men have listened to you; all that I called for from you. They will take the matter under consideration and have a talk among themselves this afternoon. There is something more that I want to tell you. The sum of money that you have been naming now; such promises as that is what I have been given in the past, naming great big sums of money to me. It is a shame the way I have been treated; for any man to come here and name big sums of money to me. I am glad that you are an Indian inspector. The money due us that we make complaints about, you must know why I don't get it. That is all I want to say in regard to these sums of money that you have been talking about.

Mr. McLAUGHLIN. I want to reply to my friend's remarks; they are very good. The sum of money that I offer is not based upon anything that is contingent, nor upon the appraisement of lands, nor upon the classification of lands, or anything of that kind. It is simply a trade. That is, you are giving so much land, for which the Government is giving you a definite amount of money at certain times. It is a straight business transaction with two parties to the trade. Men have not to be sent over there to see how many acres of land there are, or how many acres are good agricultural land, or how many acres are poor land, whether any of it is marshy, or how many acres of swamps there are. We simply buy the land for so much money, the poor with the good.

In considering this matter in regard to the cession of that piece of land and with reference to those who live on that tract of land, any of you who want to remain there, your names and the number of persons in your families should be given me so that I may calculate accordingly. If you remain there you have to take allotments, and your allotments will not be taxed for twenty-five years, but your personal property will be taxed. Within the reduced reservation it is different. Any of you located on the tract covered by the proposed cession who come in upon the reservation will be paid for what improvements you leave there—houses, fences, and any

other improvements. Each man will receive his own individual allowance. The payment for such improvements will not come out of the price I offer for the ceded tract; that will be made separate and apart from the land, and it will be so provided in the agreement. But those of you who remain out there must bear in mind that to hold your locations you must take allotments at once.

We will now adjourn until any time you send for me.

Council adjourned at 3.30 p. m.

Council reconvened Saturday, March 8, 9 o'clock p. m.

MR. McLAUGHLIN. My friends, I understand you wish to see me, and I am ready to hear what you have to say.

SHAH WEUM AH CUM IG ISH KUNG. My friend, now is the time that we must talk together.

The authority that you have from the Government, I have similar authority from the Indians here. These Indians have talked over your proposition and have done a good deal of thinking over the matter. They have never heretofore done as they do now in making up their minds to do one thing. The way it has been heretofore the Indians have accepted anything that the white man has proposed to them. You have the authority and you want to make a success of what you are sent here for, and we want to be successful also.

Now, my friend, I will tell you what I think is the value of what you come to ask me for. This is the piece of land that I was keeping for my children that you are here asking me for. I value my land, that you ask for, at \$10 per acre. That will be the only price that I will be willing to sell that land for. As long as earth lasts that land will be there. There is a great deal of money derived from lands that have been ceded by those Indians, and that is why I have set this price on the land you have come to get from me. We are talking here together: God is listening to us; that is why I do not want anything but the truth. That is all that I want to say to you.

KE ME WUM. I will now tell you the wish of these Indians that you come to visit, about the property you ask for. My friend, you have asked from me a good deal of and. That land is very nice land. That land that you came to ask me for is the and that I thought the most of, and that is the only piece of land that we have on the reservation that is of that quality. And now we have made each other understand the values that we have set. Of course I know that you are white and that you have riches; that you know how to take care of your riches, and that is why these Indians have told you that they know why you want this land. After that land is plowed, that you come to ask me for, it will increase in value. There is something else on that land which, if we cut and secure, we can sell, and that is hay. Now, God is a witness to what we have said to each other.

MR. McLAUGHLIN. I want to first ask my friend here if he did not make a mistake in the price he set upon the land. It don't seem possible that he means \$10 per acre, because that price is out of all reason. Now, my friends, I explained the matter very fully yesterday when I made you the offer of \$3.75 per acre. It is \$1.25 per acre more than I ever offered for Indian reservation land or ever had to pay for such a cession. When I made you the offer I did it with full knowledge of what I was doing. I drove over your land, through about the center of it, and over the best portion of it, along Red Lake River from Thief River Falls to this point. It would be a great pleasure for me to give you a higher price for your land if I thought it was worth more and thought that Congress would ratify it. I know there are men in Congress who will oppose it very much at the price I offer, but I believe a sufficient number will understand its value and accept my report upon it.

The Department officials, knowing me to be conservative, have confidence in me, expecting me to deal fairly both with the Indians and with the Government, and therefore don't hamper me much with instructions, leaving matters largely to my judgment, and the only fault found with me is that they think I sometimes allow too high a price for land. I can allow a higher price for your lands than a person who was not so familiar with the work, for the reason that from my many years' continuous service with the Indians my reports when they go before Congress receive due consideration. I believe in offering Indians a good price for their lands beginning, rather than start at lower figures and finally allow what should have been offered in the beginning. That is why I allowed you so high a price. I also offered to increase the acreage that you might take as allotments, doubling the quantity that you are entitled to under present laws. My friends, I am not insisting on your taking allotments at this time, but I want you to understand the advantages of having the privilege of taking double the amount of land that you are now entitled to when you do take allotments, and have a provision to that effect in any agreement that we

may make. This is a matter for you to determine, but I am advising you to accept such, as it will be for your best interests. Many of you old people may not care for allotments, but your children will need them, and to have the privilege of taking 160 acres instead of 80 acres will be of great advantage to all of you.

I am inclined to think that my friend who asked such an exorbitant price for the land a few minutes ago and with whom I have been talking Sioux must have been joking when he said he wanted \$10 per acre. If I should entertain such a proposition I would be regarded as having lost my reasoning faculties and would be called back to be doctored.

Now, my friends, I want to state another reason why I have been sent here without being hampered and tied down by instructions, which is that the Department believes me capable to negotiate an agreement that Congress will ratify; also that I know it would be useless for me to conclude an agreement with you people that would not be accepted by Congress, at least without reasonable belief that it would meet with approval. The price that I have offered you represents a large sum of money; if that money should all be in silver dollars, it would take a great many teams and wagons to haul it. Now, I will repeat the sum again. At \$3.75 per acre, that land amounts to \$960,670. The first payment would be made to you within ninety days after the agreement is ratified by Congress; that is about as soon as the money could be gotten around. It would be \$260,670 for the first payment, or about \$195 apiece for 1,340 persons, which would be 8 persons more than you now have on your rolls.

After the large first payment, it leaves \$70,000 a year for ten years. That is the amount for 1,340 persons as now on the rolls of your agency, and divided among that number would be \$52.20 for each man, woman, and child each year for ten years. You see my friends that this is a very large amount of money. In silver it would be over 31 wagonloads; it would be over 31 tons. The amount of money is very easily spoken, but if you think it over you will see what it represents. The great advantage of this payment is that it is a plain business transaction; it is not contingent or dependent upon any outside matter. The first payment would depend entirely upon when the agreement would be ratified by Congress. If I get this agreement before Congress any time within the next ten days, I hope to see it acted upon this session. Congress has two sessions. The first session is a long one, and the second session is a short one. This is the long session, and therefore no knowing when it adjourns. However, as soon as the agreement would be ratified you would receive your first payment within ninety days thereafter.

Now, My friends, I do not see how I can add anything more to my explanations. Everything that I have said to you up to the present time has been taken down here by the stenographer. Every word that I have said and what you have said is recorded here and a copy is left with you. It is unnecessary for me to say anything more, and I hope you will see the wisdom of accepting this liberal offer that I have made you. This is Saturday night, and I would like very much to come to some agreement with you this evening, that I might prepare the agreement. I never hold any councils on Sunday, but I could make out the agreements so as to have it ready to read to you Monday morning. It would take me some time to prepare it; it is several hours' work. The agreement would be written in duplicate, one copy forwarded to the Secretary of the Interior and the other left here at the agency. After it is signed by me, and by you people, and the witnesses, not a single word, letter, or punctuation mark of it can be changed without coming back for your concurrence. It has to be accepted entire, else rejected in toto.

One thing must be determined before I can write out the agreement, and that is to ascertain the number of you people, if any, who intend to remain on the ceded portion. If they all come in here, it is very simple. What I mean by being "simple" is that in case they all decide to come in the amount of money that I have stated to you will remain just as stated, but if any decide to remain on the ceded tract I have to allow 80 acres of land for each person so remaining. It will reduce the total amount proportionately, and we would not have to make any allowance for payment of improvements of the persons remaining there. Now, my friends, you have the question before you; it is for you to decide.

AID DUS O KE ZHIG. Well, my friend, I do not want to stay over there. I want to come within the reservation.

Mr. McLAUGHLIN. Every person that moves in from there upon the diminished reservation will receive a certain amount in proportion to the value of his improvements. Some of the improvements are better and worth more than others.

BAY BAUM E GISH E WAY SKUNG (GEORGE HYLANDING). Well, my friend, I will say to you what I think. I make my expressions just as these Indians here have talked matters over. We want the treaty of 1889 amended. We want to make

a treaty with you. We want to accept a treaty from you, if you can pay us a little more than what your offer is. I have my house over at Highland; I don't want to remain there. I want to come in upon the reservation.

Mr. McLAUGHLIN. I wish to say something now that will only interest those people who are living on that land that will be ceded. Coming through that section I noticed a number of well-kept graves along the way. The relatives will probably want to bring these into the reservation when they come. I will add to the price offered sufficient to pay for removing the dead to the diminished reservation, if they wish to bring them in here.

SHAH WEUM AH CUM IG ISH KUNG. One thing that has been making me feel very bad is that I have a grave out at my place. I did not want the white man to disregard the grave. I came up here from there some time ago, and a Norwegian set my house on fire and burned it up. The only thing that I have there now is the little garden that I had when I had my house. I don't want to stay over there. I want to come here. It is the wish of all the Indians to have us Indians out there to come in upon the reservation, and it is also the wish of all of us out there to come in.

GIE ME WEUM. We are not quite through with our talk with you. We have already told you about our former treaties and all that is lying around us. That is what we will attend to to-morrow. We have only said a little to you of what we want to say. One and all of us want this reservation that will be left here for us to remain intact for at least forty years, so that nobody can disturb us in that time. The coming generation will probably do different when they grow up. They will probably hear the old people talk about pine in their days. That is what we are going to leave to our children. We want to hold this land for forty years before it can be sold. If disposed of we have to give our consent to the Government.

Mr. McLAUGHLIN. My friends, you all look pleasant, and I feel pleasant also. I think we are just in the right humor for some of you to rise up and say that you accept my offer, and then designate about six men, two or three of your young men who speak, read, and write the English language and two or three of your old men, to come with me to the office and prepare the agreement, so as to have it ready for Monday morning. Remember, my friends, it requires the signatures of all of you people. You have been very patient in remaining here all week, but I want you to remain until I have your names to the agreement. After that you are at liberty to go to your homes. I don't want to tax your patience too far; but if you will remain here to-morrow and Monday, I would like it very much. I have arranged with the overseer, Mr. Sullivan, to get some beef and have it here Monday morning for you people, and I hope that those of you people here to-night will send for your friends who have gone home, or who have not been at any of our councils, so that they may be here Monday to sign the agreement.

Now, I put the question, Do you accept my proposition and will you appoint the committee to meet me to-morrow at 1 o'clock at the office to commence preparing the agreement upon the lines that we have been talking of?

(No answer.)

I wish to say that after the agreement is prepared it will be brought here in council and read to you. Every word will be explained to you, section by section and paragraph by paragraph, so that you will understand it before any of you are asked to sign it.

GAY BAY GOB BOW. We will excuse you for to-night, for we wish to stay here and talk over the matter.

Mr. McLAUGHLIN. I will retire from the council, and if you accept my proposal let me know, so that I may prepare the agreement, and I will say before bidding you good night that I hope you will see the wisdom of accepting my offer and come to that conclusion to-night, so that I can prepare the papers to-morrow.

Council adjourned Saturday 11.30 p. m.

Council reconvened Monday, March 10, 9.30 a. m.

Mr. McLAUGHLIN. My friends, we adjourned Saturday night, and I was expecting a reply sometime during the night, but am very well pleased that you have taken this time to consider the matter and that you have had two nights and all day yesterday to deliberate. You are probably ready now to give me a definite answer, and I am ready to hear your decision.

GAY BAY GOB BOW. When we were here together night before last we said at that time that \$10 per acre would be the prices we would ask for that land. There was a mistake made; we didn't mean to ask \$10; it was \$5. It was \$5 an acre that we meant, and therefore we want to put this price of \$5 an acre before you for your consideration; but if you will not give us \$5 per acre we will insist upon \$4 per acre, and will not accept anything less. We wish to hear if you will allow us \$4 per acre.

My friend, we have been meeting here for quite a long time now, and of course the Indians have wished to talk over matters, and find out which would be the best for them, and for that reason we have taken so much time. This year has been very uncomfortable and I think now that we ought to come to an understanding and conclude our agreement to-day if possible. We put this matter before you for your consideration, and we want you to think it over and see if you can agree with our wishes after you have given it due consideration.

Mr. McLAUGHLIN. My friends, we are now very close together as to price. It is certainly very gratifying to me to hear your proposition of this morning. It would afford me great pleasure to meet your wishes as to the price, and while there is some discretionary power vested in me in this matter, you must bear in mind that any agreement we may conclude must be such as will meet with Department approval and ratification by Congress. It would be absurd to enter into an agreement with you that I know would be rejected, and must therefore be such as I have reason to expect will meet with approval.

If you people will promise me to pay for the improvements of those who are now located on the tract ceded and have elected to come within the diminished reservation, also for the removal of the dead buried within the cession, I will make you another proposition. The amount that I am going to recommend for the payment for the improvements of those people is \$4,200 and for the removal of the dead \$800, making a total of \$5,000. If you will promise that out of the first payment made to you of this purchase money that every man, woman, and child (beneficiaries of the payment) will turn over to the disbursing officer who makes the payment the sum of \$4 each, so that he may pay to each of the persons to be compensated for his or her improvements thus abandoned, which will be paid to such persons in proportion to the value of their respective improvements and for the removal of their dead to the diminished reservation, I will make the lump sum consideration \$1,000,000. The first payment of which to be \$250,000 within ninety days after the agreement is ratified and the remainder, \$750,000, to be divided into fifteen annual payments of \$50,000 each. I make this offer as we are now so near together on price, and this is more than splitting the difference with you. The period of annual payments is extended in this offer to fifteen years instead of ten years, as in my former offer, but I think this longer period better for you, especially with the increased offer.

I have a list of the people who have improvements on the tract of land that will be ceded. There are 42 families, a total of 129 persons, on the tract. I intended to have an item of \$4,200 for the improvements that those people have done on that land and \$800 for the removal of the dead, making a total of \$5,000 to be paid to those people who come in here on the reservation. If you will meet that expense I will meet you part way on your proposition, and, in case you accept my proposition, the manner of payments will be somewhat changed from the suggestion that I made you in the first offer. My friends, you have been so good since we have assembled in our councils and been so patient and willing to discuss this matter so thoroughly among yourselves, and so very gentlemanly with me, that my heart has warmed for you very much, and I want to do the very best for you that can be gotten through Congress.

There are 1,332 of you people on the rolls to-day, and if each of you persons turn in \$4 out of the first payment it would make more than the necessary \$5,000. Turn this amount over to your agent for him to pay to those of you who abandon your locations in the ceded tract, in proportion to the value of the respective improvements. On those conditions I will give you an even million dollars for the cession (that is a fraction over \$3.90 per acre), of which amount I would have the agreement provide for the payment to you of \$250,000 for the first payment within ninety days after the ratification of the agreement, and figuring upon 1,340 persons, as in the other proposition, would be \$186.55 per capita for each man, woman, and child for the first payment, and the remaining \$750,000 to be divided into fifteen annual installments of \$50,000 each, which, figured upon a basis of 1,340 persons, would be \$37.30 per capita for each man, woman, and child for fifteen years.

Now, my friends, you have heard two propositions from me, the one of \$960,670 which I have offered you before, with \$260,670 for the first payment and ten annual installments for the remainder, and I will add \$5,000 to that first offer to pay Indians coming within the diminished reservation for their improvements on the ceded tract and for removal of their dead. You now have both my offers. In their first offer the Government pays for the improvements of those who abandon their improvements out there. My second offer is over \$39,000 more, but you are to reimburse the Indians coming in from the ceded tract, the amount of which is not to exceed \$5,000. My first offer provides for one large payment and ten annual

installments for the remainder. My last offer is \$1,000,000, with one large payment and remainder in fifteen annual installments. My last offer is \$34,330 more than my first offer, after providing \$5,000 for removal of the Indians.

Now, my friends, had you not been so patient and reasonable in your demands I would not have made you this offer, and it may meet with disapproval, but I hope my report in the premises will make it properly understood by the Department and by Congress, and that it will be accepted. A million dollars in even money; you can all keep track of that; there is no fraction of dollars in it. One-fourth of the entire amount—\$250,000—is for the first payment, the other three-fourths, or \$750,000, will be paid to you in fifteen annual installments of \$50,000 each.

My friends, I am very reluctant to make you this offer, but you have done your part real well, and I feel that I want to do the best I can to meet your wishes. Now, you can determine upon which of these propositions you will accept, and I am ready to prepare the agreement on either offer, but above this last offer that I have made it is absolutely impossible for me to raise one cent.

Council adjourned at 11 a. m., Monday, March 10.

Council reconvened Monday, 2 p. m., March 10, 1902.

Mr. McLAUGHLIN. My friends, I have responded to your call. I am now here to receive your answer.

WAM WAAH WE YAZ CUMIG. I want to say a few words to you just as I think. It is twice now that I have come to the councils that you have been holding with the Indians here, and the first time I was here you was called on to show your authority. When your authority was read, I felt that I understood it thoroughly. I listened attentively to the reading of your authority to see if I could catch anything that would cause me to be afraid of anything, but I could not see anything of that in the authority when it was read to me. The authority that was given you, as it was read to me and as I understood it, you have the authority to come here and make a treaty with the Indians, one that will be fair to each side. Everybody was glad when they understood your authority, that in making the treaty it should be for the benefit of both sides, and anything done should not be unjust to either side, and that anything done should be for the good of both sides.

So, my friend, you don't want to be surprised if it takes us long to come to a conclusion, as we must think what will be the best for us to take. We will think of what you have said, and then we will make up our minds as to which will be the best for us. We don't expect to labor very long until we come to a conclusion. We are getting close to an understanding, and it won't be long now until we make an agreement. We have told you that you must take our proposition if we cede the land that you are asking us for, and must make the treaty on our proposition. There are a few more wishes that we are going to place before you for your consideration and to hear what you will say regarding them.

I do not think, if your authority had been otherwise than it is, that I would have sat in one place longer than a second unless you would have given me a new mind or have made a different man out of me.

I will now bring up the discussion that these men have had since you left this room. There is nothing outside that we want to talk about, only what we are talking about inside shall be included in our treaty. In regard to the division that you said would be made of the money coming from this treaty, we expect that all of it will be included in the payment, also to pay certain Indians for their improvements abandoned and for the removal of their dead. We had a general discussion in regard to the first payment that will be made. We discussed about the first payment and decided that each Indian should receive \$200, so we have placed it before you to hear if you will accept our proposition, and to figure up how much money we will receive for the balance of the fourteen years after the first payment. That is one matter that we want you to consider. We want \$300,000 for the first payment, and the balance, \$700,000 to be paid in fourteen years after that. This would also make the payments one year shorter than what your proposition is. As soon as we hear what you have to say to our last proposition we will have something more to say to you.

Mr. McLAUGHLIN. I am very much pleased that we are so near agreeing, and I wish to reply to the question of my friend. His desire is for a larger first payment. I considered that matter well before making you that last offer, and I reached the conclusion that this amount of payment was best for you. My offer for the first payment is just one-fourth of the entire purchase price, the remainder to be paid in fifteen annual installments. Now, if you will consider you will see the disproportion of what you are thus to receive with that you are to receive during the following fifteen years. It would not be to your interests to receive any more of the money

the first year than what I propose. In offering you \$260,670 in my first proposition I was simply getting rid of that odd money, the odd dollars. But when I increased the price of your land nearly \$35,000, I then had to make different calculations for the annual payments.

My friends, if there is any one thing that will be more of a stumbling block than any other in the ratification of this agreement it will be the large first payment. You will remember when you heard my instructions read the other day, that I was directed to be fair and just to the Indians and to the United States. I have not only been fair to you, but I have been liberal in price, and to be just to you I have to take into consideration that which will be of the greatest benefit to you in the manner of payment. My friends, that is a very large first payment. I have made the calculation, and it will be about \$186.55 for each man, woman, and child, figuring the number at 1,340 persons. It will be about \$932.75 for a family of five persons for the first payment. Then the \$50,000 annual payment would give each of you about \$37.30 annually for fifteen years. My friends, the proposition that I have made to you is far better than any other disposition that could be made out of those payments, and to provide for the payment to continue for five years longer than we first talked of influenced me largely in increasing the price, so that you old people would thus have ample to provide for your wants the remainder of your days, and with this means your young men had ought to be in comfortable circumstances by the time the annual payments terminate.

I have been very liberal to you, my friends, in the offer that I have made, both as to price and manner of payment, and you must at least give me sufficient grounds upon which to have an argument that would probably carry the agreement through Congress, but to give you the large amount of \$300,000 in the first payment I would fear the outcome. You will see, my friends, that my proposition will be best for you after considering it, and much as I would like to meet your wishes in the premises, it would not be advisable, and I therefore can not consent to your request. Remember now we have reached an agreement as to price, and the manner of payment that I propose is for your best interests. The agreement will protect you along the lines that we have talked of in our councils, and I therefore hope that you will see the wisdom of accepting it without further question.

WAM WASH WE YEZ CUNIG. Well, my friend, I will now place before you what we are ready to say. In my treaty here I only want to say, before we have the treaty written out and prepared, that I give you the land that you come to ask for. I cede that land to the United States and also accept your proposition in the manner you have proposed that the money shall be paid to us. Now we will commence and place before you our proposition which we wish to have included in the agreement we make with you. When we conclude a treaty here between us we are aware that it is not hindering upon us until it is ratified by Congress, and of course we will have a copy of the agreement and after Congress ratifies the agreement we will know that the agreement is binding, and we will expect that every clause in the agreement will be binding and that it will be fulfilled. In placing before you our proposition which we wish to include in the agreement there will be certain matters which we will insist upon, which we wish very much should be included in the agreement.

In making the agreement we wish an article included that in case the Government should not fulfill the promises, or if we should miss any of the promises that you have made here, which our treaty will show, we wish to have the privilege of going to Washington to let the officials know what we think is missing. We want it also stated in the agreement that when the agent comes to make the payments we want the money divided among the Indians—we don't want any money left unpaid. We wish some of our young men who can read and write to see that all of the money that the agent is authorized to pay us is equally divided among us. I don't think it has been done heretofore in payments to the Indians. Our wish is that every cent of the money will be divided among the Indians, and we don't want anybody to stick any of it in his pocket. My friend, we want to understand each other fully what our wishes are. We are prepared to close our treaty to-day and make an agreement with you, but we want to make a good agreement. We have set before each other certain propositions, and I wish them to be included in the treaty. After we have the agreement written out and before we commence to sign it we want to place our grievances before you. We will have these things written out and ready. The act of 1889 will be one of our grievances. The treaty that we are going to make is going to be a new law, and the grievances that I refer to is on account of the act of 1889. After we have submitted these different things we will be ready to sign the agreement, which, however, will not be binding until Congress ratifies it.

GAY BAY GAH BOW OINCE. You have listened to the man who has just got through talking. He was authorized to talk to you. The territory that he spoke about was the property that we thought the most of. This is one reason why we want to make

a good treaty for it. The reservation that will remain after ceding the western portion we wish you to do all in your power to help us hold it as a permanent reservation. This is the main thing that we wish to include in the agreement; that we are going to hold this reservation. It must be distinctly understood in the agreement that we shall hold this reservation after we have ceded the land you are asking us for.

Mr. McLAUGHLIN. My friends, I wish to say that I am very glad to have our friend here, who has been so ill, and that he is able to be with us to-day. He has presented your case in a very commendable manner; and I will have words in the agreement that will, as far as possible, cover the points raised by your speakers. As I told you the other day, I prepare my agreements with great care, so that every word will have but one meaning, no two or more meanings to the same word. I have already been thinking of this matter a great deal and have considerable of the agreement prepared.

I will now go to the office and write out the agreement in full, and will make two copies of it, one of which will be left with you. When it is prepared and ready for your signatures, I will bring it here and have it interpreted to you section by section so that every word of it will be understood. It will be on the lines that we have discussed and the conclusions we have reached. When you have heard this agreement read you will see that it covers all important points. In regard to your claims that you speak of we have them all down in our minutes, which you have a copy of. The minutes of our councils show your claims as stated by you, and will go forward with the agreement. And apart from this, I will submit the substance of them as promised when I said if we concluded an agreement, your grievances would not only be submitted in the minutes of our councils, but that I would also refer to them in a special report.

My friend raised the question about the entire amount of money that you would be entitled to under the proposed agreement. I will explain that. I make all my agreements read very clearly and you would understand yours. There can be no mistake about the payments, for the reason that each payment for a certain amount of money would be distinctly provided. You all know that you would receive \$250,000 the first payment. Any of your young men who can read and write, and there are a number of them here, can take the rolls and ascertain the number of people that are going to share in the payment, and divide the total amount of money by the number of persons, and you then have exactly the amount each one should receive. The entire amount will be paid out equally among you, not one dollar of it will be returned to the Treasury. The same applies to the subsequent payments, the following fifteen annual installments. You can divide the amount of money by the number of people and find out whether you are getting the right amount of money or not. I am very glad, my friends, that your speaker has raised this question, as it has enabled me to explain it to you. I have now answered all of your questions and will proceed to the office and prepare the agreement. I want you all to be here when I return to hear the agreement explained. I will have duplicate copies of the agreement, and after I explain it one copy is left here with you, the other I forward to Washington. I want you all to remain here because our many councils and long discussions would amount to nothing unless you remain and sign the agreement when it is ready for signature.

WAM WAAH WE YEZ CUNIG. I want to say a little more to you in regard to the payment. We would like to have the money paid to us in currency or silver, for it is very hard for us to get a check cashed here.

Mr. McLAUGHLIN. The agreement will provide that it be paid in cash.

WAM WAAH WE YEZ CUNIG. Another thing I want to say to you is when anybody starts to deliver anything to its destination if he loses it on the road he must go back and recover it. We don't want to be losers by anything that would be lost.

Mr. McLAUGHLIN. You would not be losers by any loss of money by the disbursing agent. He would be responsible for all the money placed in his hands for you until it was paid and your receipts for same obtained.

WAM WAAH WE YEZ CUNIG. Joseph C. Roy will now read to you in our language the paper we have prepared, which I referred to a while ago.

JOSEPH C. ROY (reading; Peter Graves interpreting). First. We accept your offer of \$1,000,000. We will pay the Indians located on the ceded tract for the improvements they abandoned and for removing of their dead.

Second. In ceding the western portion of the reservation, which embraces about 256,152 acres, we wish the balance of the diminished reservation to be held in common by the Red Lake Chippewa Indians.

Third. The pine on our reservation not to be cut without our consent, except as may be required for our own use, and that we may cut all dead and down timber, other than pine, for our use and benefit.

Fourth. We not to be forced to take allotments until such time as we deem proper and consent to same. And we want it provided that each man, woman, and child shall be entitled to 160 acres.

Fifth. No railroad to be built inside of our diminished reservation, or permission given by the Indian Department for such without obtaining our consent.

Sixth. The United States Government, or any other party, shall not construct a dam or cause one to be built on our reservation without first obtaining our consent.

Seventh. Any person who is not a member of our band to be removed from our reservation when so recommended by a majority of our people.

Eighth. Any person who is not on the census rolls of our agency shall not be admitted on our census rolls without first obtaining the consent of a majority of our people.

Ninth. That all the claims which we have against the Government shall be referred to the Court of Claims for adjudication, with the right of appeal to the Supreme Court of the United States.

Tenth. That there shall be no seine or pound nets set to catch fish in the waters of Red Lake.

Eleventh. After all pine timber on the ceded lands of our reservation under the act of 1889 has been cut, making the waterways for the removal of the timber no longer necessary, the waterways for commercial purposes within our reservation to be closed.

Twelfth. In making the agreement now under consideration the name of the Indians of this reservation heretofore known as Red Lake and Pembina bands of Chippewa to be changed so as to be hereafter known as the Red Lake Chippewa, as all Pembinas of this reservation have become Red Lake Indians by intermarriage or long residence.

Thirteenth. It must also be provided in our new agreement that the present law be so changed as to give the Red Lake Indians all moneys collected from fines imposed upon whites for trespassing upon our reservation.

Mr. McLAUGHLIN. The privilege of cutting dead and down timber can only be legally done by obtaining authority of the Department.

The present law prohibits persons not belonging to an Indian reservation from remaining thereon or coming upon it without permission from proper authority, and all persons violating such law can be summarily removed.

It is now the policy of the Department not to admit anyone to the rolls of an Indian agency without the consent of a majority of the Indians interested has been first obtained.

The laws of the respective States govern in regard to fishery laws as they do in game laws, and the right to free use of all navigable waters to all citizens of the United States is provided by our Federal laws.

Federal and State laws also govern in regard to construction of dams such as you refer to, and any damage done to the property of individuals has to be paid for by the parties who are benefited by the construction of such dams. This would apply to your reservation lands, should any of your lands be damaged so as to make them less valuable.

Our present laws give the right of appeal to the Supreme Court of the United States with any case originating in the lower court and regularly carried up to the Supreme Court. The privilege of having a case adjudicated by the Court of Claims is usually authorized by act of Congress. No authority is vested in me in these questions, and, therefore, can not be considered by me. But your statements in regard to these matters will appear in the minutes of our councils, which will be forwarded with our agreement, and will, if agreement is ratified, appear printed in the public document.

Regarding the name Red Lake and Pembina bands of Chippewa Indians, as you people of Red Lake Reservation have heretofore been known by, I regard it unnecessary to continue that name hereafter, as those of you who were formerly of the Pembina band have now almost, if not entirely, lost your identity as Pembinas, having been merged into the Red Lake band by intermarriage or long residence. Our agreement will provide that only those Indians belonging on the Red Lake Reservation will share in its benefits, and that you possess your diminished reservation independent of any other of the Chippewa-bands.

We will now adjourn so that I may prepare the agreement.

Council adjourned at 4 p. m., Monday, March 10, 1902.

Council reconvened Monday, March 10, 7.30 p. m.

Mr. McLAUGHLIN. I will say, my friends, that I have the agreement prepared and I will now read it to you if you are ready to hear it.

GAY HAY GAH BOW OINCE. The reservation that will be left after we cede the western portion, we want it to be an Indian reservation for all time to come, and that we shall never be required to take allotments within the boundary thereof. That is the wish of the Indians here. That is the most that they hate. That is what they are afraid of.

Mr. McLAUGHLIN. My friends, that question has been discussed a great deal since we commenced our councils. I have told you that there would be nothing in the agreement that we are entering into that would compel you to take allotments. That is a matter in the future and entirely with yourselves. But as this is probably the last agreement you will ever have in regard to any of these lands, at least for most of you old people, I deem it very important that you have a provision in the agreement that will provide for your taking allotments in case any of your people should want to; but there is nothing obligatory in the matter, and the way the law stands now, what is called the general allotment act, each person is only entitled to 80 acres of agricultural land. Furthermore, pine land or other timber land is not classed as agricultural land for allotment purposes. I want to provide for you in the future, so that any time you may take allotments you will have the privilege of taking pine lands, and that when you do so you will be entitled to 160 acres each—every man, woman, and child—regardless of the classification, whether agricultural or pine land.

My friends, the way I have the agreement prepared, which I will read to you, your interests are fully protected. I will take pains to make clear every paragraph in the agreement, and I will not tell you anything that is misleading. I will tell you exactly the meaning of each sentence and each word. Now, these two copies of the agree(ment) are written at the same time. The typewriter made the same impressions on each at the same time, therefore the one is an exact copy of the other. Now, I will have one of your young men hold that copy, which is the one that will be left here at the agency. This in my hand is the original, which I will read, and after it is signed will forward to the Department. This is the copy that the signatures will be attached to.

(Mr. McLaughlin reads the agreement.)

You have now heard the agreement read, and the three interpreters say that it is exactly as it is written here.

I will now sign the agreement on the part of the United States, and you must all sign it after me, so as to complete it.

TEEN JE GWON ABE. I want to speak to you. God is listening to what we have been saying. God is a witness to this agreement. We want this agreement so that the mice can not break into it, as they have to the other agreements. Our diminished reservation must remain intact for all time.

Inspector James McLaughlin then signs the agreement, followed by Chief Kay bay no din and others until 108 of the Indians present had signed, and council adjourned at 11 p. m. Monday, March 10, 1902.

I hereby certify that the foregoing is a true and correct transcript of the proceedings of councils held by James McLaughlin, United States Indian inspector, with the Indians of the Red Lake Indian Reservation, Minn., from March 4 to 10, inclusive, 1902.

FRED. DENNIS, *Stenographer.*

RED LAKE AGENCY, MINN., *March 12, 1902.*

This agreement, made and entered into this tenth day of March, nineteen hundred and two, by and between James McLaughlin, United States Indian inspector, on the part of the United States, and the Red Lake and Pembina bands of Chippewa Indians belonging on the Red Lake Reservation, in the State of Minnesota, witnesseth:

ARTICLE I. The said Indians belonging on the Red Lake Indian Reservation, Minnesota, for the consideration hereinafter named, do hereby cede, surrender, grant, and convey to the United States all their claim, right, title, and interest in and to all that part of the Red Lake Indian Reservation situate within the boundaries of Red Lake County, Minnesota, as said county is at present defined and organized, the tract hereby ceded, being more particularly described as embracing all that part of said Red Lake Indian Reservation lying west of the range line between ranges thirty-eight (38) and thirty-nine (39) west of the fifth (5th) principal meridian, the tract of land hereby ceded approximating two hundred and fifty-six thousand one hundred and fifty-two (256,152) acres, and also hereby agree that all of said Indians now residing on the tract hereby ceded shall remove to the diminished reservation within six months after the ratification of this agreement, and shall be paid not exceeding five thousand (5,000) dollars in cash by the Indians of said Red Lake Reservation

out of the first payment received by them from the proceeds of this cession, said five thousand (5,000) dollars or so much thereof as may be necessary, to be paid equitably to those thus removing, in proportion to the value of their respective improvements, which payment by said Red Lake Indians shall be in full for all improvements which they will abandon, and also for the removal within the diminished reservation of their dead from where they are now buried on the tract hereby ceded.

ARTICLE II. In consideration of the land ceded, relinquished, and conveyed by Article I of this agreement, the United States stipulates and agrees to pay said Indians, in the manner hereinafter provided, the sum of one million (1,000,000) dollars.

ARTICLE III. It is understood that the amount to be paid to said Indians, as stipulated by Article II of this agreement, the sum of two hundred and fifty thousand (250,000) dollars, shall be paid in cash, per capita, share and share alike, to each man, woman, and child belonging on said Red Lake Indian Reservation, within ninety (90) days after the ratification of this agreement, and the remainder of said sum of one million (1,000,000) dollars, viz. seven hundred and fifty thousand (750,000) dollars shall be paid in cash, per capita, in fifteen (15) annual installments of fifty thousand (50,000) dollars each, the first of which fifteen annual installments to be paid in the month of October of the year following that in which payment of the said two hundred and fifty thousand (250,000) dollars is made, as provided in this agreement, and in the month of October of each year thereafter of the succeeding fourteen years, covering the period of said fifteen annual installments.

ARTICLE IV. It is further agreed that the said Indians belonging on the said Red Lake Indian Reservation, Minnesota, shall possess their diminished reservation independent of all other bands of the Chippewa tribe of Indians, and shall be entitled to allotments thereon of one hundred and sixty (160) acres each, of either agricultural or pine land, the different classes of land to be apportioned as equitably as possible among the allottees.

ARTICLE V. It is understood that nothing in this agreement shall be construed to deprive the said Indians belonging on the Red Lake Indian Reservation, Minnesota, of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this agreement.

ARTICLE VI. This agreement shall take effect and be in force when signed by the United States Indian inspector, James McLaughlin, and by a majority of the male adult Indians, parties hereto, and when accepted and ratified by the Congress of the United States.

In witness whereof the said James McLaughlin, United States Indian inspector, on the part of the United States, and the male adult Indians belonging on the Red Lake Indian Reservation, Minnesota, have hereunto set their hands and seals at Red Lake Indian Agency, Minnesota, this tenth day of March, A. D. nineteen hundred and two.

JAMES McLAUGHLIN, [SEAL.]
United States Indian Inspector.

No.	Name.	Mark.	Age.
1	Kay bay no din (chief).....	x (Seal.)	67
2	Mays ko ko noy ay (chief).....	x (Seal.)	70
3	Pay sheke zbig (chief).....	x (Seal.)	35
4	Nay ay tow ub (chief).....	x (Seal.)	54
5	Ah num e ay ke zbig (chief).....	x (Seal.)	76
6	Ieen je gwon abe (chief).....	x (Seal.)	63
7	Kay bay gah bow (chief).....	x (Seal.)	55
8	Bay baum e ke zbig waish kung.....	x (Seal.)	57
9	Wah we yay cumig.....	x (Seal.)	52
10	Mesah bay.....	x (Seal.)	39
11	Ke me wun.....	x (Seal.)	49
12	Day be ke zbig.....	x (Seal.)	62
13	Ain dus so ke zbig.....	x (Seal.)	76
14	Nay nah e gwon abe.....	x (Seal.)	70
15	Nay gah bow.....	x (Seal.)	47
16	Kay bay gah bow aince.....	x (Seal.)	60
17	Joseph Gurneau.....	x (Seal.)	42
18	Way we zhe gwon ayaush.....	x (Seal.)	63
19	Kah ke zhe baush.....	x (Seal.)	75
20	Ah be tao ke zbig waib (John Thunder).....	x (Seal.)	54
21	Ah be tah aun ah quod (Wm. Gurneau).....	x (Seal.)	67
22	Way metig osh e wah cum ig.....	x (Seal.)	30
23	Joseph B. Jourdain.....	x (Seal.)	31
24	Alexander Jourdain.....	x (Seal.)	52
25	Kc ne we gwon ay aush.....	x (Seal.)	31
26	Alexiance Jourdain.....	x (Seal.)	44

No.	Name.	Mark.	Age.
27	Be war bick ogwon (Joe Thunder).....	x (Seal.)	45
28	Ay waus se ke zhig (Thos Gurneau).....	x (Seal.)	42
29	C. A. H. Beaulieu.....	(Seal.)	58
20	William Beaulieu.....	x (Seal.)	24
31	Pe avash.....	x (Seal.)	56
32	Frank Gurneau.....	x (Seal.)	55
33	Oke mah wub (Sam Sayers).....	x (Seal.)	37
34	Joe Omen.....	(Seal.)	28
35	Amos Bigbird.....	(Seal.)	37
36	Samuel Mills.....	(Seal.)	31
37	Mo ke seence (Joe Mason).....	x (Seal.)	33
38	Louis Jourdain.....	x (Seal.)	37
39	Kah ke gay aun ah quod.....	x (Seal.)	42
40	Louis Gurneau.....	(Seal.)	20
41	Aysh quay gah bow.....	x (Seal.)	65
42	Kah min way way ke zhig.....	x (Seal.)	23
43	May dwav cumig ish kung.....	x (Seal.)	41
44	Kah ke gay be nais.....	x (Seal.)	46
45	Kah we tah bid (Peter Sumner).....	x (Seal.)	49
46	May maush kow e gah bow.....	x (Seal.)	61
47	Kah ke gay nung.....	x (Seal.)	52
48	Nay tah we ke be nais.....	x (Seal.)	56
49	Wav way nub (Charlie Ward).....	x (Seal.)	32
50	Ke niew (No. 2).....	x (Seal.)	34
51	Kay bav o sah dung.....	x (Seal.)	36
52	Te bish ko ke zhig.....	x (Seal.)	25
53	Nah gaun ub e tung.....	x (Seal.)	25
54	She bah yaun ah quod.....	x (Seal.)	20
55	Wm. Sayers.....	(Seal.)	37
56	Ke che be nay shee (Dick Big Bird).....	x (Seal.)	66
57	Pah go nay ke zhig.....	x (Seal.)	61
58	Ah wau e ke zhig.....	x (Seal.)	58
59	Pe che gah bow.....	x (Seal.)	65
60	Mis oush dais aince.....	x (Seal.)	57
61	Paym way wav be nais.....	x (Seal.)	50
62	May dway gunzh ee.....	x (Seal.)	38
63	Ne gaun e be nais.....	x (Seal.)	55
64	Che ke zhig.....	x (Seal.)	61
65	Shav wun ah cum ig ish kung.....	x (Seal.)	62
66	Wah haus.....	x (Seal.)	60
67	Nah zhe fay be nais.....	x (Seal.)	55
68	Ke niew aince (No. 1).....	x (Seal.)	52
69	Ay ne we gwon abe.....	x (Seal.)	56
70	Kah kang ee.....	x (Seal.)	55
71	Peter Jourdain.....	x (Seal.)	48
72	Joe Beaulieu.....	(Seal.)	25
73	Robert Smith.....	(Seal.)	20
74	Wain je mah duh.....	x (Seal.)	47
75	Kay zhe way wainz.....	x (Seal.)	30
76	Kah ke gay gwon av aus ung.....	x (Seal.)	35
77	Ke be dwav o say (George English).....	x (Seal.)	37
78	Alex Beaulieu.....	(Seal.)	26
79	Chas. Sumner.....	(Seal.)	25
80	Bay baum e hee.....	x (Seal.)	29
81	David Dickinson.....	(Seal.)	19
82	May zhah ke aush.....	x (Seal.)	25
83	Chas. Chatville.....	(Seal.)	29
84	Bay nais e wub.....	x (Seal.)	55
85	Kaush kah laun.....	x (Seal.)	44
86	Johnny Snears.....	(Seal.)	27
87	William R. Snears.....	(Seal.)	44
88	George Beaulieu.....	(Seal.)	19
89	Ke we tah gwon av aush.....	x (Seal.)	28
90	O he zaun e ke zhig (No. 1).....	x (Seal.)	34
91	Shah shah go ze kung.....	x (Seal.)	42
92	Oom he ke zhig.....	x (Seal.)	46
93	Shah daun (Henry Defoe).....	x (Seal.)	55
94	George Bassett.....	x (Seal.)	44
95	Ay ub e tung.....	x (Seal.)	68
96	Ke we tah be nais (Frank English).....	x (Seal.)	48
97	William Jourdain.....	x (Seal.)	31
98	Iah be duh.....	x (Seal.)	51
99	Frank Jourdain.....	x (Seal.)	57
100	Nah gaun way we dung.....	x (Seal.)	47
101	Ke zhig waish kung.....	x (Seal.)	29
102	Peter Graves.....	(Seal.)	32
103	Jos. C. Roy.....	(Seal.)	40
104	Pah go nay ke zhig (No. 2).....	x (Seal.)	31
105	Frank Beaulieu.....	x (Seal.)	20
106	Roderick McKenzie.....	(Seal.)	49
107	Simon Spears.....	(Seal.)	20
108	Mo ne do ke zis oonce.....	x (Seal.)	19
109	Louison Lussier.....	x (Seal.)	39
110	Bazile Lawrence.....	x (Seal.)	31
111	Joseph Nadeau.....	x (Seal.)	72

No.	Name.	Mark.	Age.
112	Nab wah quay ke zhig.	x (Seal.)	45
113	Samuel Dickinson.	x (Seal.)	25
114	Nays sab wah je waib.	x (Seal.)	35
115	Ke niew aince.	x (Seal.)	54
116	Ah ke wain zee.	x (Seal.)	45
117	Alexis Gurneau.	x (Seal.)	25
118	Ain dus so ke niew.	x (Seal.)	55
119	Baptise Lawrence.	x (Seal.)	29
120	Omah yah we gah bow.	x (Seal.)	49
121	Way jaun, or Wah baun e quay.	x (Seal.)	34
122	Ke ne wub.	x (Seal.)	70
123	Benjamin Hohson.	(Seal.)	24
124	Jacob Loud.	(Seal.)	21
125	Albert Redbird.	(Seal.)	19
126	Be dway way ke zhig.	x (Seal.)	48
127	John Defoe.	(Seal.)	23
128	Nay tum e ke zhig.	x (Seal.)	76
129	Ah sum way we dung.	x (Seal.)	48
130	Way ke mah wub e tung.	x (Seal.)	57
131	Me ze way ke niew (Mark Hart).	x (Seal.)	42
132	Ke che mo ko mon.	x (Seal.)	23
133	Ke way ke niew.	x (Seal.)	36
134	As sin e we ne nee.	x (Seal.)	45
135	Way me tig osh eence.	x (Seal.)	67
136	Pierriche Johnson.	x (Seal.)	19
137	Alexis Jourdain.	x (Seal.)	86
138	O ke mah wub.	x (Seal.)	19
139	O ke mah un ung.	x (Seal.)	29
140	Kay ne wub.	x (Seal.)	65
141	Zaunz way.	x (Seal.)	19
142	Go je je we ne nee.	x (Seal.)	52
143	Way me tig osh eence.	x (Seal.)	45
144	Kay gway dub e tung.	x (Seal.)	39
145	Me zhuck eence.	x (Seal.)	32
146	Nab gaun ah bun dung (Kah ke gay ke zhigoonce).	x (Seal.)	25
147	Obe zaun e ke zhig.	x (Seal.)	29
148	Nay tah wub e tung.	x (Seal.)	37
149	May zhah ke be nais.	x (Seal.)	18
150	Way oon dab cum ig ish kung.	x (Seal.)	52
151	Te bish ko cumig.	x (Seal.)	53
152	Shah go ze kung.	x (Seal.)	35
153	George Nadeau.	x (Seal.)	18
154	Nah bous ko yoo.	x (Seal.)	18
155	Nay kab me gog.	x (Seal.)	18
156	Ke way din aush.	x (Seal.)	19
157	Ke niew e ke zhig.	x (Seal.)	35
158	Solomon Blue.	x (Seal.)	46
159	Wah bish ke be nais.	x (Seal.)	39
160	George Wain dub e tung.	x (Seal.)	24
161	Francis Lawrence.	(Seal.)	22
162	Wah tish ke gwon ay aush.	x (Seal.)	47
163	She mah gun.	x (Seal.)	58
164	George Stateler.	x (Seal.)	47
165	Aysh ke bah ke zit.	x (Seal.)	50
166	As sin e we ne nee.	x (Seal.)	50
167	Ke me wun aun ab quod.	x (Seal.)	51
168	Kay ke zhe gwon abe.	x (Seal.)	43
169	Nc gaun e gwon.	x (Seal.)	40
170	May zhuck e be nais.	x (Seal.)	51
171	Kah ke gay cum ig ub.	x (Seal.)	85
172	James Ah ke wain zee.	x (Seal.)	20
173	Kay bay gwon.	x (Seal.)	61
174	Baptiste Vasseur.	x (Seal.)	69
175	John Rainy.	x (Seal.)	26
176	Pos se naus.	x (Seal.)	81
177	Uah gaun e gah bow.	x (Seal.)	75
178	Mah je ke wis.	x (Seal.)	43
179	Way me tigosh eence.	x (Seal.)	43
180	Joseph Clark.	x (Seal.)	27
181	John Beaulieu.	(Seal.)	28
182	Pe je gaunce.	x (Seal.)	43
183	Nay zhe kay we gah bow.	x (Seal.)	51
184	Peter Clark.	(Seal.)	23
185	Way zow e gwon abe.	x (Seal.)	22
186	Ke me wun.	x (Seal.)	20
187	Waus say ke zhig.	x (Seal.)	41
188	Patrice Jourdain.	x (Seal.)	45
189	Henry Martin.	(Seal.)	24
190	Wm. Prentice.	(Seal.)	23
191	Albert Stateler.	(Seal.)	28
192	Bazil Thunder.	x (Seal.)	32
193	Ne bow aince (Geo. Jefferson).	x (Seal.)	23
194	Ke we tah ke niew.	x (Seal.)	39
195	Quay ke gah bow.	x (Seal.)	36
196	Wah kaince.	x (Seal.)	49

No.	Name.	Mark.	Age.
197	Kah ke gay cum ig.....	x (Seal.)	58
198	Ah je dum o.....	x (Seal.)	53
199	Ah zhe day ke zhig.....	x (Seal.)	59
200	Ke neese.....	x (Seal.)	59
201	Nay tah wub e tung.....	x (Seal.)	29
202	Omah yah wah je waib.....	x (Seal.)	38
203	Ah ne me ke we gwon.....	x (Seal.)	53
204	Kay gway je way be nung.....	x (Seal.)	21
205	Te bish ke yaush.....	x (Seal.)	28
206	Way oen ding.....	x (Seal.)	32
207	Kay ke zhe aus ung.....	x (Seal.)	25
208	Ah nah quod.....	x (Seal.)	24
209	Ke ehe ah nish e nah bay.....	x (Seal.)	83
210	Nah zhah ke gwen abe.....	x (Seal.)	34
211	Kay bay aus ung.....	x (Seal.)	36
212	Ay gah sain dung.....	x (Seal.)	21
213	Wah be gwon ay aush.....	x (Seal.)	20
214	Kah tah bosh sheed ke niew.....	x (Seal.)	19
215	Mosh ke nay be tung.....	x (Seal.)	18
216	Ne din e be nais.....	x (Seal.)	52
217	O me meence.....	x (Seal.)	18
218	Ish ko day o tah baun.....	x (Seal.)	21
219	Mays ko gwon.....	x (Seal.)	51
220	Kah dah wah be day.....	x (Seal.)	18

We, the undersigned, hereby certify that the foregoing agreement was fully explained by us in open council to the Indians of the Red Lake Reservation, Minn.; that it was fully understood by them before signing, and that the agreement was duly executed and signed by said Indians.

JOS. C. ROY,
C. W. MORRISON,
PETER GRAVES,
Interpreters.

RED LAKE AGENCY, MINN., *March 12, 1902.*

We, the undersigned, do hereby certify that we witnessed the signatures of James McLaughlin, United States Indian inspector, and the 220 Indians of the Red Lake Reservation, Minn., to the foregoing agreement.

DANIEL SULLIVAN,
Overseer in Charge of Subagency.
FRANK H. KRATKA,
Mayor of Thief River Falls, Minn.
B. L. FAIRBANKS,
White Earth Agency, Minn.

RED LAKE AGENCY, MINN., *March 12, 1902.*

I certify that the total number of male adult Indians over 18 years of age belonging on the Red Lake Reservation, Minn., is 334, of whom 220 have signed the foregoing agreement.

G. L. SCOTT,
Major, Tenth Cavalry, Acting Indian Agent.

LEECH LAKE AGENCY, MINN., *March 17, 1902.*

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 3, 1902.

SIR: I have the honor to acknowledge the receipt, by reference from you, for report in triplicate and return of papers, of a letter from the Commissioner of Indian Affairs, dated March 28, 1902, accompanied by a transcript of the proceedings in council held by James McLaughlin, United States Indian inspector, with the Indians of the Red Lake Indian Reservation, Minn., from March 4 to 10, 1902, inclusive; the agreement with the Red Lake and Pembina bands of Chippewa Indians belonging on the Red Lake Reservation, dated March 10, 1902; the report of James McLaughlin, Indian inspector, dated March 18, 1902, and the draft of a proposed bill, entitled "A bill to ratify and confirm an agreement with the Red Lake and Pembina bands of Indians of the Red Lake Reservation, Minnesota, and making appropriations to carry the same into effect."

Under the agreement referred to the Indians named cede to the United States all of their right, title, and interest in and to all that part of the Red Lake Indian Reservation lying west of the range line between ranges 38 and 39 west, of the fifth principal meridian, the tract ceded approximating in area 256,152 acres.

The Indian inspector reports in part as follows:

"The tract included in the cession, taken as a whole, is excellent agricultural land. There are some marshes within the tract, the most of which, however, afford good grass, and with drainage, which is quite feasible, most of those lands could be brought under cultivation, and all of the land that would not be brought under cultivation by cutting the numerous beaver dams in said marshy tracts would be thus sufficiently drained to become good meadows, which would yield large crops of hay annually, and the native grass on these marsh lands is of excellent quality.

"There is no pine timber on this ceded portion, but there are a good many scattering, small-sized trees, chiefly poplar and oak, throughout the tract, each section of the land containing more or less of this character of timber, and sufficient on almost every quarter section to provide the homesteader with necessary fuel.

"The consideration allowed the Indians for the cession is a fraction over \$3.90 per acre, which I regard as a fair and reasonable price. It is true that some of the choicest portions could be sold at a much higher price, ranging from \$5 to \$15 per acre, and some select tracts adjacent to Thief River Falls would doubtless bring from \$20 to \$25 per acre; but taking the entire cession as a whole, with its numerous marshes and undrained tracts, I regard the consideration, also manner of payment, as fair and just both to the Indians and to the United States."

The Commissioner of Indian Affairs suggests that a section be added to the bill providing for the disposition of the lands ceded. No reservations are provided for in the agreement.

The general character of the lands now under consideration is similar to the lands in the ceded portion of the Rosebud Indian Reservation in South Dakota, and, in my judgment, the lands in the ceded portions of the two reservations should be disposed of in the same manner.

Following my report of March 3, 1901, as to the disposition of the ceded lands in the Rosebud Reservation, I have to state that, in view of the provisions of the "free homestead" act of May 17, 1900 (31 Stat. L., 179), and of the act of March 3, 1901 (31 Stat. L., 1093), providing for the disposal of lands recently opened to settlement and entry in Oklahoma, and considering the price to be paid by the Government to the Indians for the lands acquired, I respectfully recommend that there be added to said bill the following section:

"Sec. 3. That the lands ceded to the United States under said agreement shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no one person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars, as defined and described in section 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged: *And provided further*, That the price of said lands shall be \$3.90 per acre, but settlers under the homestead law who shall reside upon and cultivate the land entered in good faith for the period required by existing law shall be entitled to a patent for the lands so entered upon the payment to the local land officers of the usual and customary fee and commissions, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry, except that homestead settlers who commute their entries under section 2301, Revised Statutes, shall pay for the land entered the price fixed herein."

Very respectfully,

BINGER HERMANN,
Commissioner.

The SECRETARY OF THE INTERIOR.

A BILL To ratify and confirm an agreement with the Red Lake and Pembina bands of Indians of the Red Lake Reservation, Minnesota, and making appropriation to carry the same into effect.

Whereas James McLaughlin, United States Indian inspector, did, on the 10th day of March, anno Domini 1902, make and conclude an agreement with the adult male Indians of the Red Lake Reservation, in the State of Minnesota, which said agreement is in words and figures as follows:

"This agreement, made and entered into this tenth day of March, nineteen hundred and two, by and between James McLaughlin, United States Indian inspector, on the part of the United States, and the Red Lake and Pembina bands of Chippewa

Indians, belonging on the Red Lake Reservation, in the State of Minnesota, witnesseth:

"ARTICLE I. The said Indians belonging on the Red Lake Indian Reservation, Minnesota, for the consideration hereinafter named, do hereby cede, surrender, grant, and convey to the United States all their claim, right, title, and interest in and to all that part of the Red Lake Indian Reservation situate within the boundaries of Red Lake County, Minnesota, as said county is at present defined and organized, the tract hereby ceded being more particularly described as embracing all that part of the said Red Lake Indian Reservation lying west of the range line between ranges thirty-eight (38) and thirty-nine (39) west of the fifth (5th) principal meridian, the tract of land hereby ceded approximating two hundred and fifty-six thousand one hundred and fifty-two (256,152) acres, and also hereby agree that all of said Indians now residing on the tract hereby ceded shall remove to the diminished reservation within six months after the ratification of this agreement, and shall be paid not exceeding five thousand (5,000) dollars in cash by the Indians of said Red Lake Reservation out of the first payment received by them from the proceeds of this cession, said five thousand (5,000) dollars, or so much thereof as may be necessary, to be paid equitably to those thus removing, in proportion to the value of their respective improvements, which payment, by said Red Lake Indians, shall be in full for all improvements which they will abandon, and also for the removal within the diminished reservation of their dead from where they are now buried on the tract hereby ceded.

"ARTICLE II. In consideration of the land ceded, relinquished, and conveyed by Article I of this agreement, the United States stipulates and agrees to pay to said Indians, in the manner hereinafter provided, the sum of one million (1,000,000) dollars.

"ARTICLE III. It is understood that of the amount to be paid to said Indians, as stipulated by Article II of this agreement, the sum of two hundred and fifty thousand (250,000) dollars shall be paid in cash, per capita, share and share alike, to each man, woman, and child belonging on said Red Lake Indian Reservation within ninety (90) days after the ratification of this agreement, and the remainder of the said sum of one million dollars, viz, seven hundred and fifty thousand (750,000) dollars shall be paid in cash, per capita, in fifteen (15) annual installments of fifty thousand (50,000) dollars each, the first of which fifteen annual installments to be paid in the month of October of the year following that in which payment of the said two hundred and fifty thousand (250,000) dollars is made, as provided in this agreement, and in the month of October of each year thereafter of the succeeding fourteen years, covering the period of said fifteen annual installments.

"ARTICLE IV. It is further agreed that the said Indians belonging on the said Red Lake Indian Reservation, Minnesota, shall possess their diminished reservation independent of all other bands of the Chippewa tribe of Indians, and shall be entitled to allotments thereon of one hundred and sixty (160) acres each, of either agricultural or pine land, the different classes of land to be apportioned as equitably as possible among the allottees.

"ARTICLE V. It is understood that nothing in this agreement shall be construed to deprive the said Indians belonging on the Red Lake Indian Reservation, Minnesota, of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this agreement.

"ARTICLE VI. This agreement shall take effect and be in force when signed by United States Indian Inspector James McLaughlin and by a majority of the male adult Indians, parties hereto, and when accepted and ratified by the Congress of the United States.

"In witness whereof the said James McLaughlin, United States Indian inspector, on the part of the United States, and the male adult Indians belonging on the Red Lake Indian Reservation, Minnesota, have hereunto set their hands and seals at Red Lake Indian Agency, Minnesota, this tenth day of March, A. D. nineteen hundred and two.

"JAMES McLAUGHLIN [SEAL],
"United States Indian Inspector."

No.	Name.	Mark.	Age.
1	Kay bay no din (chief).....	x (Seal.)	67
2	Mays ko ko noy ay (chief).....	x (Seal.)	70
3	Pay she ke zhig (chief).....	x (Seal.)	35
4	Nay ay tow ub (chief).....	x (Seal.)	54
5	Ak num e ay ke zhig (chief).....	x (Seal.)	76
6	I een je gwon abe (chief).....	x (Seal.)	63
7	Kay bay gah bow (chief).....	x (Seal.)	55

And 213 other male adult Indians.

"We, the undersigned, hereby certify that the foregoing agreement was fully explained by us in open council to the Indians of the Red Lake Reservation, Minnesota; that it was fully understood by them before signing, and that the agreement was duly executed and signed by said Indians.

"JOS. C. ROY,
 "C. W. MORRISON,
 "PETER GRAVES,
"Interpreters.

"RED LAKE AGENCY, MINNESOTA, *March 12th, 1902.*

"We, the undersigned, do hereby certify that we witnessed the signatures of James McLaughlin, U. S. Indian inspector, and the two hundred and twenty (220) Indians of the Red Lake Reservation, Minnesota, to the foregoing agreement.

"DANIEL SULLIVAN,
"Overseer in Charge of Subagency.
 "FRANK H. KRATKA,
"Mayor of Thief River Falls, Minn.
 "B. L. FAIRBANKS,
"White Earth Agency, Minn.

"RED LAKE AGENCY, MINNESOTA, *March 12th, 1902.*

"I certify that the total number of male adult Indians over eighteen (18) years of age belonging on the Red Lake Reservation, Minnesota, is three hundred and thirty-four (334), of whom two hundred and twenty (220) have signed the foregoing agreement.

G. L. SCOTT,
"Major, Tenth Cavalry, Acting Indian Agent.

"LEECH LAKE AGENCY, MINNESOTA, *March 17, 1902.*"

Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said agreement be, and the same hereby is, accepted, ratified, and confirmed.

SEC. 2. That in accordance with the provisions of article three of said agreement the sum of two hundred and fifty thousand dollars be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 3. That the lands ceded to the United States under said agreement shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry.

Provided, That the rights of honorably discharged Union soldiers and sailors of the late civil war and the Spanish war, as defined and described in section twenty-three hundred and five of the Revised Statutes, as amended by the act of March first, nineteen hundred and one, shall not be abridged: And provided further, That the price of said lands shall be three dollars and ninety cents per acre, but settlers under the homestead law, who shall reside upon and cultivate the land entered in good faith for the period required by existing law, shall be entitled to a patent for the lands so entered upon the payment to the local land officers of the usual and customary fee and commissions, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry, except that homestead settlers who commute their entries under section twenty-three hundred and one, Revised Statutes, shall pay for the land entered the price fixed herein.

Mr. McLAUGHLIN. I said to the Indians here on page 38:

My friends, when I was leaving Washington, just a few minutes before starting I had a talk with the Commissioner of Indian Affairs in relation to this matter—that is, Commissioner Jones—and he told me to be liberal in the price allowed you for the lands, and he would approve of it; that he was desirous to see you people of the Red Lakes protected in every way possible, and he told me that I might provide that you receive double the amount of land for allotments that you are entitled to under the present act.

This was quite an inducement. Under the Nelson Act, so called, they were only entitled to 80 acres, whilst this agreement as negotiated with them provided for 160 acres. These are the minutes of the council that was held with the Indians in 1903, when I went back to see if they would ratify the provisions of the appropriation act of March 3, 1903. It shows my explanation to the Indians and their positive refusal to accept, on account of the method of opening lands, manner of payment, and the granting of about \$57,000 in land to the State of Minnesota at a minimum price.

The CHAIRMAN. Now, wherein do you consider that their refusal on their part to ratify is so important in this hearing that we are now holding?

Mr. McLAUGHLIN. I do not think it is important at all. The only thing that I would regard as important is that the bill that was submitted to them—the act that was submitted to them for their concurrence—continued and there were a great many changes from the original agreement of 1902. That retained article 4 in toto, which recognized them as the only owners of the Red Lake Reservation.

Mr. KELLY. When we adjourned yesterday there was a question I wanted to ask. When you went out in 1902 to have your negotiations with the Indians was there any understanding at all with the Indians at that time that if they accepted the agreement you brought to them, that the provisions of the act of 1889 would be waived, where the residue of the Red Lake Reservation was to be held for all Chippewa Indians?

Mr. McLAUGHLIN. The minutes show the discussion very clearly. That was told them several times.

Mr. KELLY. You gave them to understand that?

Mr. McLAUGHLIN. Yes.

Mr. KELLY. Don't you think that was the reason they accepted the agreement?

Mr. McLAUGHLIN. Without a doubt that had a great deal to do with it.

Mr. HERNANDEZ. Do I understand that the reason that they accepted the first agreement—I mean the Red Lakes—was because they were to get from under the agreement of 1889?

Mr. McLAUGHLIN. That did not come out in the discussions at all.

The CHAIRMAN. I do not think Mr. McLaughlin has proceeded far enough in his statement for us to begin to interrogate yet. I would like to have him go on and explain why they went up there to make this contract. Why did the Government at that time want to take that band of Indians there and separate them and give them an advantage, you might say, over the other members of the Chippewa Tribe?

Mr. McLAUGHLIN. That, Mr. Chairman, I know nothing of, other than these petitions that came in here—the petition of the Commercial Club of Thief River Falls, the delegation from the State, two Senators and some Congressmen, and my instructions from the department—and I had just arrived; if I recollect—I had just arrived from California, and they sent for me and told me what they would do—would send me out to Minnesota. I had never visited the Chippewas before.

The CHAIRMAN. Have you anything further on your mind that you want to tell us with regard to what took place?

Mr. McLAUGHLIN. I simply came up here to submit these agreements, and in case the committee desired to ask me any questions, I would be very glad to answer them.

The CHAIRMAN. Then, Mr. Hernandez, I will ask your pardon for having broken in at the time I did, but I supposed he had a long statement with regard to this which he wanted to make before we started to question him. You have stated you were requested to offer them an inducement of double the amount that they expected to receive. In other words, they were figuring on getting 80 acres and you gave them 160. Now, what I am interested in is, why that sort of an inducement was offered. Why was it so necessary at that time to make this particularly seemingly advantageous arrangement with the Red Lakes, as against all the others of the Minnesota Chippewas?

Mr. McLAUGHLIN. As I understood that and still understand that, it was because the Red Lakes had a large amount of surplus land, a large reservation, and the same was allowed the White Lake Reservation Indians later by the act of 1905. They had taken 80 acres of land, but 80 acres additional was given to them.

The CHAIRMAN. Now, when you went up there, you did not see anybody but the Red Lake Indians?

Mr. McLAUGHLIN. I did not see any of the other Indians.

The CHAIRMAN. So you did not know at that time whether or not other portions of the Chippewa Band were favorable to that sort of a special arrangement?

Mr. McLAUGHLIN. I did not.

Mr. KELLY. But there was no request from any other Chippewa Indians to have this negotiation?

Mr. McLAUGHLIN. No; other than a number of Indians told me they had been receiving letters from Washington and from elsewhere, advising them not to negotiate any agreement.

The CHAIRMAN. But you did go ahead and make the agreement and sign them all up?

Mr. McLAUGHLIN. Yes; under my instructions.

The CHAIRMAN. And it was brought about largely by such inferences and eloquence as you could bring to bear upon them, and the further particular inducement of the additional 80 acres of land?

Mr. McLAUGHLIN. I regarded it for the best interests of those Indians.

Mr. KELLY. Much more than the additional 80 acres, Mr. Chairman. There was also the proposition that the Red Lake Indians would own entirely all the Red Lake Reservation, instead of the Chippewas.

The CHAIRMAN. But when you went up there to make it, you believed yourself it was a particularly advantageous thing for the Red Lake Indians to do?

Mr. McLAUGHLIN. I did.

The CHAIRMAN. Of course, with your great knowledge of Indian affairs at that time, it must have come into your mind, "Is it not possible that this is an arrangement which will not work to the advantage of all the Chippewas?"

Mr. McLAUGHLIN. That did not occur to me at all, on account of my instructions.

The CHAIRMAN. You can see now, from the way the thing has turned out, that that would have been a normal thing to have had under consideration at the time. Of course, I appreciate that you were under instructions to go and do a certain thing.

Mr. McLAUGHLIN. I was very well acquainted with the commissioner in the agreement of 1889, H. M. Rice. He was the first governor of Minnesota, the first United States Senator, an old friend of mine. Mr. Whiting, of Wisconsin; I knew him, and I knew that they had had a long summer's work there in negotiating the agreement, and the Indians complained a great deal about it.

The CHAIRMAN. I would like to see that penciled note that you gave me yesterday in the hearing.

Mr. SINCLAIR. Mr. Chairman, may I ask the major about the Pembinas? The Pembinas are on that Red Lake Reservation also?

Mr. McLAUGHLIN. There are a number of them still there.

Mr. SINCLAIR. Did you negotiate with them in making this treaty?

Mr. McLAUGHLIN. Not in this treaty at all.

Mr. SINCLAIR. Why were they not included?

Mr. McLAUGHLIN. They were not included in my instructions the second time I went out.

Mr. SINCLAIR. About how many Pembinas are there?

Mr. McLAUGHLIN. They are not designated. They are all called Red Lake Chippewas. There are some Pembinas among them. There were about that time 100 or 105 Pembinas on land on the White Earth Reservation which had been purchased by the Government and located there.

The CHAIRMAN. Bishop Marty was up there about that time, advising.

Mr. McLAUGHLIN. Yes, sir.

The CHAIRMAN. What did he mean when he made this statement?

We do not say that the other Indians have a right on this reservation which is yours alone. Now, this reservation being yours, you must do with it as your advantage dictates, and for the advantage of the whole Chippewa Nation.

What did he mean, in your judgment, by saying that was to the advantage of the whole Chippewa Nation?

Mr. McLAUGHLIN. He undoubtedly felt like many others had felt, that that tract of country belonged to the Red Lake Indians alone, but the act of Congress that they were presenting would not bear them out in that; that was in violation of the act of Congress. All the Indians were interested, so far as negotiations were concerned.

The CHAIRMAN. You knew that that statement was a fact when you were making that agreement?

Mr. McLAUGHLIN. I did not see those minutes at all.

The CHAIRMAN. You knew of this agreement, did you not? You knew that this agreement you were making with the Red Lakes was contrary to the law as it existed at that time?

Mr. McLAUGHLIN. Oh, yes; I was aware of that. Another thing I wish to say. A number of the Red Lakes were talking with me at the hotel and around the office. They claim that they did own about 3,000,000 acres at one time in their reservation, and that they ceded all of that except about 800,000 acres which were reserved for them as a diminished reservation. That is what we were negotiating for, and this 2,200,000 acres that they had ceded, thrown into a jackpot, that they had given them a right to participate in the proceeds.

The CHAIRMAN. They thought, having ceded that property over to the whole Chippewa Nation, that it was a reasonable compensation for what they were getting under this agreement?

Mr. McLAUGHLIN. Yes; for what they were getting under this agreement.

The CHAIRMAN. There is a real potent thing in this proposition.

Mr. HERNANDEZ. Yes; but is there any record?

Mr. McLAUGHLIN. No.

Mr. HERNANDEZ. There is nothing that will bear that out, on that contention?

Mr. McLAUGHLIN. No.

The CHAIRMAN. But, Mr. Hernandez, we are searching now not only for the written agreement, but the thing that surrounded it, that brought out the written record. What do you mean; what they were actually doing the thing for? I do not think that we can always in these matters determine them merely by just what the written words say? I think you must consider the surroundings to some extent at least. I always do in making up my mind about a question.

Mr. HERNANDEZ. As I understand it, the first record which was made in official acts with these Indians by the Federal Government, was made in 1854, was it not? That is when they were brought really under Federal control?

Mr. KELLY. That was the treaty; yes.

Mr. HERNANDEZ. That is as far back as we can go. Prior to that, as I understand it, these Indians were apparently occupying that territory there. They were moving from one place to another, as a sort of nomadic tribe.

Mr. McLAUGHLIN. As far back—I reached Minnesota in the spring of 1863, and am well acquainted with the Indians of Minnesota and the Northwest since that time, and at that time the Red Lakers were up in that country. I don't know how long previous to that.

Mr. HERNANDEZ. Right there where you found them in 1902?

Mr. McLAUGHLIN. In 1902.

The CHAIRMAN. You haven't any interest in the particular solution of this question, except as to how it would distribute the benefits to the greatest number of people?

Mr. McLAUGHLIN. I have not.

The CHAIRMAN. You have no particular pride in carrying out this agreement, if it should be found that it ought never to have been made?

Mr. McLAUGHLIN. When I concluded that agreement with the Indians, I submitted my report and the agreement to the Secretary.

The CHAIRMAN. You are here just as a witness, to give us the benefit of the knowledge you have concerning that agreement.

Mr. McLAUGHLIN. Yes.

The CHAIRMAN. Since that time, have you kept watch of that situation up there, so that you would be able to say whether or not you believe that the agreement has been a righteous one, and it has been a good thing for the Red Lake Indians, as well as the other Chippewas that are involved.

Mr. McLAUGHLIN. I always regarded it as an excellent agreement, for the best interests of the Red Lakers, at least.

The CHAIRMAN. But, up to this time, the Red Lake Indians have not received very many benefits from the agreement, have they?

Mr. McLAUGHLIN. I think they have, as provided in the act of Congress.

The CHAIRMAN. There have been no lands allotted.

Mr. McLAUGHLIN. No lands allotted.

The CHAIRMAN. Their lumber has not been sold to a very great extent at this time?

Mr. McLAUGHLIN. As will be seen from the minutes of my council, the Indians were opposed—were very much opposed to allotments at that time, and I advised them to make it possible for them to receive the allotments when the time was up.

Mr. KELLY. Have you gone over, Major, the original Ellsworth bill that is before this committee?

Mr. McLAUGHLIN. I have not. Is that Congressman Ellsworth of Minnesota?

Mr. KELLY. Yes. Would you say it would be a square deal now to allot the Red Lake Indians according to the plan of each one having an equal allotment, and then take the residue for the benefit of the Chippewa Nation?

Mr. McLAUGHLIN. I could not answer that question.

The CHAIRMAN. You do not want to give your opinion in that matter?

Mr. McLAUGHLIN. I am something like Mr. Meritt was yesterday. We don't want to mention names.

The CHAIRMAN. That is all right enough from an officer's standpoint, but in order to get to the real facts of this situation, we should call things by their right names, and we should get to the bottom of it, without regard to whose toes are stepped on, and it seems to me that if any member of this committee has a question he desires to ask you, who drew that agreement, that is pregnant, that is material, and without regard to whom it affects, you ought to answer the question.

Mr. McLAUGHLIN. I will be pleased to, Mr. Chairman.

Mr. KELLY. I would just like to say this, Mr. Chairman. I agree with you heartily in that statement, that we are having the responsibility of acting on a matter here which is in controversy, and can not be settled apparently by that agreement. Therefore, we want to know if we are going to take the responsibility, and I ask the question as to whether now, after all the proceedings that have occurred, it would be a square deal to allot these Red Lake Indians, under the plan of 1889, each one getting an equal chance, and then the residue to go to the benefit of the Chippewa nation instead of the Red Lake Indians alone? I do not believe that would require any mention of names.

Mr. McLAUGHLIN. My work in the Indian Service has been very general. I have not been to the Red Lake agency, I think, since that time, about 1904, and I really do not know the conditions at the present time. I know the conditions generally among the Millack Indians, but I have not given the White Earth matters a great deal of study and thought, but I know a great deal of dissatisfaction grew out of that, and there were reports in the department made by Inspector Wright in regard to it, but the conditions under that act had been very unsatisfactory, especially the sale of the timber, and I have had comparatively little to do with it.

Mr. KELLY. Well, have you ever come in contact with any of this insidious propaganda that Mr. Meritt spoke about yesterday, in an effort to discredit the Indian Bureau, for ulterior motives?

Mr. McLAUGHLIN. I do not know what Mr. Meritt referred to yesterday.

The CHAIRMAN. That is the first you had heard of it?

Mr. McLAUGHLIN. Yes; I have heard people talk against the Indians.

Mr. KELLY. You do not consider that their objection made to the work of the Indian Bureau is regarded as a sinister propaganda?

Mr. McLAUGHLIN. Not at all.

The CHAIRMAN. Maj. McLaughlin, as I understand it, after you succeeded in making that agreement, and after your efforts trying to get the Red Lake Indians to agree to the legislation which subsequently was passed, your connection with it ceased.

Mr. McLAUGHLIN. Ceased.

The CHAIRMAN. And since then, you have no knowledge whether or not the arrangement has worked satisfactorily, or whether it has worked at all?

Mr. McLAUGHLIN. I have not.

The CHAIRMAN. Then I do not see where you can give us any further information with regard to the matter which will be helpful. If there is anybody else who desires to ask him any questions, we will be pleased to have them. If not, Major, we are grateful to you for the information you have given us.

Now, Mr. Meritt, is there anyone else you wish heard? Mr. Steenerson, are you here with a desire to enlighten us on this question?

STATEMENT OF HON. HALVOR STEENERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA.

The CHAIRMAN. Mr. Steenerson, will you tell us—we have several conflicting interests here, and I would like to know, if I can, which side of the question you are on.

Mr. STEENERSON. I will try and get at that. The first I knew about this Ellsworth bill was yesterday. Otherwise, I think I would have been here before. The White Earth Reservation is entirely within my district. The Red Lake Reservation was formerly entirely within my district. It was so when the act of 1904 was passed, and when Mr. McLaughlin negotiated the agreement by the sale of those 11 towns. At the present time, the county of Clearwater in my district embraces a portion of the Red Lake Reservation. The balance of the reservation where most of the Indians reside is in Beltrami County, which is in Knutson's district.

Now, as to my interest in this matter, if I were to go by the number of people, the number of voters, the proponents of this bill, as I understand it, acting through their attorney, Mr. Ballinger, because I do not suppose Mr. Ellsworth had very much to do with framing this bill—I understand it is framed by the attorney for this Chippewa association—now, most of those that are in control of that organization live in my district.

The CHAIRMAN. Mr. Steenerson, will you permit me to make a suggestion?

Mr. STEENERSON. Yes.

The CHAIRMAN. Since that bill was drawn, the interested parties have been at work here diligently in the city, and they have prepared a bill, subsequent to the drafting of the Ellsworth bill, which carries many changes; and yesterday the recognized counsel and the Bureau agreed before this committee that they were within 5 per cent of an agreement upon the entire bill; so that probably you have not seen the new measure.

Mr. STEENERSON. No. I will simply say that I was very much shocked at the proposition contained in the Ellsworth bill, because it attacks the legislation for the last 30 or 40 years, and it assumes that it was all wrong, and that they are going to have us appropriate large sums of money to sue the State of Minnesota, and to sue the Red Lake band of Indians, and to have it adjudicated. I have heard of people buying a law suit, but this is the first time I ever heard anybody suggesting that he buy a suit against himself, and that is what this amounts to. And not only that, but it would be a suit involving facts 30, 40, 50, or 60 years old, and almost entirely forgotten and passed out of the memory of human living beings, and it would be the greatest chance for misrepresenting the facts to the Court of Claims, and I was surprised that it was really entertained with seriousness.

Now, I want to say a few words about my connection with this legislation. The original Nelson Act was passed before I came to Congress. It was passed January 14, 1889. Senator Nelson was the author of it.

The CHAIRMAN. He was in Congress at that time?

Mr. STEENERSON. He was a Representative in Congress. He worked nearly his whole term before he got that bill through. You will recall that that bill provides for the cession of all Indian reservations in Minnesota, except the Red Lake Reservation and a part of the White Earth that was already allotted, and it provided for the removal of all these 10 or 15 bands, scattered on the different reservations, to White Earth. Now, this is relevant, because I am about to discuss the act of October 22, 1904, of which I was the author, and which is based upon the McLaughlin agreement.

The Nelson Act embraces a cession of a part of the then Red Lake Reservation. Now, here is the Seventeenth Annual Report of the Bureau of Ethnology of the Smithsonian Institution, that gives a bird's-eye view of the original Indian titles in Minnesota. You will observe this great, big, blue—light blue—tract here, embracing probably 5,000,000 acres. That is the land of the Chippewas of Mississippi. That was ceded, I think, in 1855. Now, the Red Lake and Pembina Bands, or the Red Lake Band, then occupied what is here dark green and yellow, as you will see. The cessions were numbers 446 and 445. Now, the piece here in dark green along the Red Lake River does not represent all the holdings of the Chippewas. The Red Lake Band, then the Red Lake and Pembina Bands, as they were called, held that land there in North Dakota as far as Devils Lake, and that was ceded in 1863, at the Grand Crossing, where the United States was represented by Mr. Morrill and two other commissioners. The treaty was made right near where I live, at the crossing of the Red River. Nobody was a party

to that treaty except the United States and the band of Red Lake Indians. Their title and right to cede the land were not questioned. Then that left them this large tract here in yellow. That was ceded under the Nelson Act, and part of it—that is, you will see here all the colored part—was ceded under the Nelson Act and part of it—that is, here you will see all the colored part—was ceded under the Nelson Act and the particularly white left around the lake here is what is called the diminished reservation, and this includes the so-called 11 towns ceded by act of 1904. So this tract that was ceded, according to the report, contained 3,260,000 acres

That was contributed by the Red Lake Band of Indians to this common pot. That was the Nelson Act, that all these lands should be ceded, and the money derived from it should be the common fund. The timber was to be sold and the land was to be sold, and that amounts to some \$6,000,000 now, after paying all expenses and annual outlay for support. Mind you, the Red Lake and Pembina Bands numbered, when the Nelson Act was passed, 1,386, or, say, 1,400 souls, men, women, and children. They contributed 3,200,000 acres to the common fund, as against less than a million acres of the other tribe. The whole amounted to 8,400 Indians. That is all there was. They had a census made at that time, and they included everybody that was entitled to enrollment, and that amounted to 8,400. So you see that one-sixth of the Indians constituting the Red Lakers contributed three-quarters of all the land to the common fund.

Mr. KELLY. Right there, when that cession was made by the Red Lakers, under the Nelson Act of 1889, they were to cede everything with the exception of enough to equal allotments for the Red Lake Tribe?

Mr. STEENERSON. Oh, no. The cession exactly describes the boundaries that they ceded, and the balance was retained for the Red Lake Indians with a view to something in the future—allotting it in severalty.

Mr. KELLY. I understood the report of those commissioners to be that they held 700,000 acres particularly because a great portion of that land was swamp land.

Mr. STEENERSON. That is very true. They say there is more swamp land retained for the Red Lake Indians, because so much of it is swamp. I have a bill pending before the Committee on Food Control, to get permission to build a dam at the outlet of Red Lake and to drain those lands. If we get a proper outlet for those lands, the land which the Rice Commission's report says is worthless, will be most valuable. They are the richest lands in the world, and if this improvement we are contemplating—we have organized a drainage district which will spend over a million dollars, most of it, of course, for improvement in dams outside. Well, no, the principal thing is the regulating works for an outlet for Red Lake. Red Lake is a lake of 400 square miles surface with a drainage basin of 2,000 square miles, and it is the ideal place for holding the water. The banks of the Red River, flowing out of Red Lake, are so low that in ordinary stages of water the river is bank full, but when the water is high or in a wet season, that whole country adjacent to the river is absolutely useless—it is flooded.

The CHAIRMAN. It has been brought to the attention of the committee that under the proposed drainage scheme of the Red Lake, when that improvement was completed, it would lower the lake 8 feet. What do you say about that?

Mr. STEENERSON. Well, the Interior Department had a conference yesterday about it, and we continued the conference until later on. It is too early to say how much that will lower it, or how much it will raise it. They will control the level of the lake to prevent the floods.

The CHAIRMAN. If you lower that lake 8 feet, what would be the surface mileage of the lake after that?

Mr. STEENERSON. Well, it would probably be a little less. The shores are somewhat shallow, but the law will provide that the Interior Department will control the level of the lake. That is a part of the agreement that is going to be made, that the Secretary of the Interior shall determine what shall be the minimum and what shall be the maximum, so that will be taken care of.

Mr. KELLY. Let me get the point I was trying to get at. You do not contend that it was ever as a matter of right that these 700,000 acres were to be held for the benefit of the Red Lake Indians exclusively, do you?

Mr. STEENERSON. Oh, certainly. Now, I want to go into that. Here is what the Mississippi Band—they had four or five million acres. They sold that. That was given to them. Now, in 1863 the Red Lake Band made a treaty with the United States for the sale—for the cession of this vast tract embracing the Minnesota side of the Red River Valley and in North Dakota clear to Devils Lake.

The CHAIRMAN. I did not get the date.

Mr. STEENERSON. 1863. That was ceded by the Red Lake Band, not by the Chippewas of Mississippi, nor Chippewas of Lake Superior, and when this question of ceding the reservation—there was an objection at the time that they were contributing more to the common fund, by contributing 3,200,000 acres, than the others were contributing, and the commissioner said, "It is true you are contributing more. This is your land, but still at the same time all of this region between Lake Superior and the Rocky Mountains, or at least the western part of North Dakota, was taken by conquest from the Sioux and you were allied with the Chippewas of Mississippi and the Chippewas of the Lake Superior Band, and therefore it is due to their cooperation that you got this land, and, therefore, it is not so unjust as you seem to think to contribute part of it to the common fund." Well, they finally secured the agreement giving these 3,200,000 acres, but I call your attention to the fact that in the treaty the Indians—the tribe that occupied the land—were recognized as the owners. You will see here a title. I have got the treaty numbered in this Seventeenth Annual Report of the Smithsonian Institution, Bureau of Ethnology, page 322, who were the grantors—the possessors. Of course, the United States owns the title to all of it, but they have the right of possession. The Chippewas of Lake Superior, cession of October 30, 1854-55-56—that is the big blue one—Chippewas of the Mississippi—they did not ask the Red Lake Band anything about it. The United States dealt with the Chippewas of Mississippi. Now, in 445—that is the cession of the Red River Valley north of the Wild Rice River, extending into North Dakota—

Chippewas of Red Lake and the Pembina Band cession of October, 1863—they were recognized as the owners. In treaty No. 446, this treaty under the Nelson Act, a separate agreement was made and they signed it, although the act provided that there should be a majority of all the Indians agree to it. They were a recognized separate tribe or band of Indians up here.

Now, this was the situation when the act of 1904 came up. Since you have had Maj. McLaughlin, you are probably familiar with the contract he made with them.

The CHAIRMAN. We would like to hear you on it, though, just the same.

Mr. STEENERSON. The act of 1904 begins by reciting the McLaughlin agreement. It was in 1902 Maj. McLaughlin made this agreement, and you will notice it provides that the Red Lake Indians should get \$1,000,000 for the 11 towns of approximately 265,000 acres. We sought to get that appropriation in Congress. I became a member of Congress after that bargain was made, but there was no legislation on the statutes. With the Minnesota delegation, I went to Speaker Cannon to get this appropriation of \$1,000,000, assuring him that the money would be refunded by the homesteaders, the land to be subject to homestead at \$4 an acre. First a man had to pay \$4 and then he had to comply with the homestead law and was only entitled to 160 acres. The Speaker refused to recognize me on that proposition. I had a bill pending and he refused to recognize me because of the condition of the Treasury, and, therefore, I was unable to get the bill at that session. I then framed the so-called Steenerson Act, which provided that instead of paying \$1,000,000 flat, we would sell the land first, subject to the homestead law, at auction. My view of this land—part of it was right across the river from the city of Thief River Falls of 5,000 people, on the Great Northern Railroad, and on the Soo Railroad.

An auction sale was held. Each quarter was sold to the highest bidder, and the bidder had to pay the price in installments and had to fulfill the homestead law. That was the provision of the law. Some of it sold as high as \$35 an acre. It was sold very advantageously. After the first sale, the bill provided that it should be subject to another homestead at a minimum of \$4 an acre, but no one could keep a homestead unless he paid the price that it had been bought at this auction, provided the bidder did not comply, and so on. Eventually all of this land went to homesteaders at \$4 an acre—that is, the unsold part. The department—Mr. Meritt will bear me out that instead of getting \$1,000,000 the Indians got \$265,000 more than a million, and it is the first time in the history of legislation about the Indians that we have given them more than they agreed to take, and the Red Lake Indians will bear me out in this. They have touched my heart, not in the usual Indian fashion in which they always claim they are cheated, but they have said they had a square deal under that act and “we are satisfied that the white people have treated us right for once.”

Mr. COLE. What became of that \$1,260,000?

Mr. STEENERSON. It was paid into the Treasury and then paid out to the Red Lake Indians.

Mr. COLE. Separately?

Mr. STEENERSON. It was not paid to every Indian, no; because they were recognized as the owners of this land. That went to the Red Lake Band. You will see from this map that here are cessions from the various bands, from the various 15 or 20 bands of Indians that occupied the land. They sold the land. Their title was a title of occupancy, and the Nelson act itself says that the commission shall procure a cession of the lands from the different tribes or bands of Indians occupying the same. Now, here is the whole Red River Valley, it was ceded by the Red Lake Band in 1863. That is—

The CHAIRMAN. Fifty-six years ago the 6th day of December last, because that is the day I was born?

Mr. STEENERSON. Yes; 56 years ago. Since that time nobody on the face of the earth has questioned that the United States had the right to get the possessive right of the Indians that occupied it. They occupied it and they fought for it, and I have seen the place where they had fortifications and their trenches, where they fought as bravely as the men in France for that Red Lake Reservation, and they won it from the Sioux, and their allies were the other Chippewas, and the other tribes got this other land over here which was sold in 1854 and 1855. No Red Lakers shared the proceeds of these lands.

I went and had a council after Maj. McLoughlin had procured this agreement, which was a fair agreement, and as the major always does, he explains it thoroughly, and I had great difficulty in getting them to agree to take the chance about getting the price of the land sold at auction, as I proposed, and the million dollars. They wanted the million dollars flat, but I took my chances on getting it, and I knew if we did not get the million dollars Congress would have to pay it, because that is what the major had agreed to pay them, and of course they never complained of getting more.

I went with those Indians and talked with them and I heard their contention that this was their land, that they had won it—they and their ancestors and won it by conquest, and that they occupied it, and that they had ceded the 3,200,000 acres for the common benefit of the Chippewas of Minnesota; and that in view of the fact that the remainder was so small, and a large part of it was overflow and unfit for cultivation, by reason of being swamp, that they needed the balance, and you will observe it is not such a very large tract. (Pointing to map.) There is only this shore. This is all timber on the south shore. This is all timber. This is half tamarac swamp. Here is the prairie region, and that is practically all overflow. They said they needed this land for themselves, and they wanted to put it into the act of 1904 that this reservation was for the Red Lake Indians, and we put it in there and could not see any reason why. I am telling you now the reason why it was put into that act, because the history from the beginning shows the Chippewas of Red Lake were recognized as the owners of that land. They were occupants. Of course, the fee was in the United States. They did not cede it under the act of 1889.

Now, when they understood that, they were satisfied, and the law has been executed since 1904, and this \$1,265,000 that they received for these 11 towns has been devoted to their interests. They have been paid annuities and what else? Is there anything for schools?

Mr. MERITT. Oh, yes; there are schools there on the Red Lake Reservation.

The CHAIRMAN. Now, Mr. Steenerson, at the time these various agreements were made, was there any protest on the part of other portions of the Chippewa Band in Minnesota?

Mr. STEENERSON. Never, never. I never heard any objection to it whatever. If there was any, the department knows about it. They did not make it to me, and Senator Clapp, who had charge of the bill, who was chairman of the Committee on Indian Affairs—we talked that over and Senator Clapp and I were up—I don't remember whether we were up before or after the act of 1904 was signed, but we were there sometime; but we never heard any complaint—at least, I didn't, and when I was with Senator Clapp we held pow-wow with them, and there was no complaint.

Now, it seems to me——

The CHAIRMAN. You understand, in making this argument, that under this act and the jurisdictional bill which accompanies it, the Chippewas of Minnesota expect to collect back from somebody this \$1,265,000 of which you are speaking?

Mr. STEENERSON. I supposed that was in the Ballinger bill that I saw, or the Ellsworth bill, but it is not only that, they are going to attack the disposition of the funds under the Nelson Act. They are going to bring suit against the State of Minnesota. The Interior Department has allowed certain swamp-land claims and other land claims, and the State of Minnesota will be sued. You will be appropriating a large sum of money here to sue the State of Minnesota. I do not see that we should assume that what Minnesota and the Interior Department has done is wrong. I am familiar with that thing. The State of Minnesota claimed a lot of swamp land under an act long anterior to this. The 1862 swamp-land act, and it was prior to the reservation in question. The State auditor and attorney general of the State of Minnesota were here in Washington, and they submitted briefs, and some of us were notified. I do not think the Minnesota delegation in Congress took any particular part, one side or the other. It was a question between the Indians and the State; but the Interior Department—the Secretary of the Interior—has issued a patent to thousands of acres of this land, which has gone into the hands of bona fide people, and I would not assume it was wrong to do so. They must have had what they supposed was the law back of them, and for this committee to authorize a suit and pay the expenses of such a suit upon simply the say-so of somebody, after it is years and years old, seems to me is going a good ways for litigation.

The CHAIRMAN. Why do you assume that they are going to do it? You said a moment ago in your remarks that you were going——

Mr. STEENERSON. I withdraw that. I did not mean to say that.

The CHAIRMAN. I think you ought to withdraw that.

Mr. STEENERSON. Certainly, I did not mean any reflection. The chairman knows very well I did not mean that. I have unbounded faith in the good sense, not only of this chairman, but every member of this committee.

Now, I am very much interested in this matter, because I was sort of sponsor for this act of 1904, which put into it terms that the Red Lake Reservation should be the property of the Red Lake Indians.

The CHAIRMAN. The claim is that in that act of 1904 of which you are so proud, that would completely change the law of 1889. If you will pardon me, let us go into what the law of 1889 says.

Mr. STEENERSON. I do not mean to say that I am proud of the verbiage. I am proud of the purpose and intent of it, because it followed the history of the land titles up there. I do not admit that the act of 1914 changes the act of 1889 when properly understood.

The CHAIRMAN. I understand, but the act of 1889 provides this: "The commission shall be appointed, whose duties shall be to negotiate with all the different tribes of Chippewa Indians in the State of Minnesota for the complete cession of all their right and title, except the White Earth and Red Lake Reservations"—the first section of the bill. The third section is that "these commissioners shall thereupon, as soon as practicable, and under the direction of the said commissioners, allot lands," etc. Now, the contention we have had is that the act of 1889 required the cession of all lands, except an allotment sufficient to carry out the terms of the general allotment act.

Mr. STEENERSON. If you will read the proceedings which I have here, at the time of the cession, that Nelson Act was not interpreted to mean that they were simply to have enough for allotments. Now, that expressly provided that they were going to be on the shore of Red Lake and have their fishing rights. They said that they desired to have 10 acres apiece for maple bush. There is maple sugar made there, and that was mentioned in the pow-wow when they signed this, and they were to have the timber. Now, the Red Lake Indians, at least part of them, the Cross Lakers, were called pagans at that time. I presume they are pagans yet, but they are the finest lot of Indians I have known anywhere. I went over there once when there was an inspector of the Interior Department there, over on this point here. There is the finest stand of white pine that has ever grown on God's footstool. The land is high in the center and slopes to the side, and around the fringe is maple and a little hardwood, so in the fall of the year the fringe is yellow and the inside is deep green. If you go in there, you would think you were in a sacred place, and absolutely those 400 or 500 Indians regard that as a temple of God. They worship it, and they were so excited when they heard there was a representative of the Government in there to sell that timber to the lumber companies, as they thought he was, that they sent out word to everybody to meet them. They heard I was there and I met them, and I explained that this representative of the Interior Department was not going to sell their timber. They wanted to preserve that. I said they will probably make arrangements to cut that which is mature and dying anyway, but that the forest will be preserved. That is what they wanted, and that is what it is good for, for a perpetual forest, and Congress did later on create a forest reserve, embracing this point—an Indian forest for their own special benefit and some of their timber.

Now, the interpretation of the act as contended for there seems to me to be very narrow. I have not examined that act with that thing in view, but I recall that it has been the understanding for at least 30 years, since the Nelson Act was passed, that these Red Lake Indians were to have not only the lands that could be allotted in severalty for agricultural purposes, but were to have these forest lands that are not fit for agriculture, for their use, and I think that

would be a rather strange interpretation of that act. It must be interpreted with a view to the conversations which were had when the Indians signed the agreement that that act should take effect. You will remember I contended for that here a year or two ago, when these same gentlemen were making this contention about the power of Congress to use the money derived from the fund and to provide that—the provision that you had under consideration providing for withdrawing from the principal sum a certain amount. You will remember I contended that under the understanding that was had at the time the act was accepted by the Indians it was only in the case of an emergency that they should use the principal. The interest was to be devoted part to the schools and part to their annuities, and the principal should be untouched except in case, as was explained to them, of extraordinary drought or something like that, but the Supreme Court, you will remember, decided the other way, that it was for the judgment of Congress to interpret that act as the necessities might require. They did not require strict adherence to the understanding at the time, but if you decide the other way, and decide in favor of the contention of the interpretation at the time the act was accepted, the Supreme Court would have sustained it. This is a new question to me that you have suggested, that that interpretation conflicts with all the contemporaneous understanding at the time the act was signed by the Red Lakers.

Mr. KELLY. Let me call this to your attention, further, that in exact opposite distinction to your claim that the Red Lakes were being treated with special advantage in the act of 1889, that that act distinctly gives them a different status on this ground only; that is, while the other tribes must ratify this agreement with a two-thirds vote, the Red Lake Indians must be compelled to a cession of their land on a two-thirds vote of all the Chippewas. They were really put at a disadvantage in order to compel them to do the same thing.

Mr. STEENERSON. You will remember that was discussed in the report of the commission, that the Red Lake Indians said that they had been recognized as the occupants of that land from time immemorial, and that it was theirs; they did not want to share the proceeds of the part that was ceded with anybody.

Mr. KELLY. That is right, but the act provides——

Mr. STEENERSON. Well, wait now. The commission says that they considered that, and they seem to have recognized that the Red Lakers had the possessory title to that. Now, here on page 14 of the commission's report of the Rice commission:

The first council was held at Red Lake June 29, where we remained until July 8. We found them intelligent, dignified, and courteous, but for several days indisposed to give a favorable hearing. The other propositions were not as favorable as those made three years ago, which did not require the proceeds of their reservation to be shared by others.

Now, they pointed that proposition out and the Red Lakers said, "This is not as favorable, because we share the proceeds with the rest of the Chippewas of Minnesota." The propositions were not as favorable as those made three years ago, which did not require the proceeds of their reservation to be shared by others. The chiefs were opposed to breaking up the tribal relations, fearing that if they were so broken their power and influence would be gone. The young

men, however, were heartily in favor of the allotment plan, knowing if their lands were held in severalty each man's earnings could be used for his own advantage instead of, as heretofore, being necessarily shared with the idle, but they did not like the provision for "providing with their funds," although when it was explained to them that the country from Lake Superior and beyond the Red River at the north was by the united efforts of all the Chippewas taken by conquest from the Sioux, and that if it had not been for these united efforts they could not have taken and held the reservation, they admitted the correctness of the statement, but that some of their neighbors had received more than their due.

Now, that simply shows that they recognized their rights. All of this land between Lake Superior and the Dakotas was taken by conquest from the Sioux. The Chippewas of Mississippi, who are the principal ones that now ask to sue, they got all of this land there, and the Red Lakers did not share in it. They sold this tract here, and they got it so that Congress in 1853 and 1854 established the doctrine that the Chippewas, occupying here, back of the Chippewas of Mississippi, got the proceeds of that. The Chippewas of Red Lake got the Red River Valley proceeds, and the Chippewas of Superior got no part of that; so they are pursuing a consistent policy. They were induced to sign this Nelson Act by the point that they made there—right on that point of the Ninth Council—this is the council at White River. Here is a speech made by the chief of the White Rivers on this very point, about the construction you are speaking of:

An arrangement has been made with the Red Lake Indians, which includes the Pembinas, but we fear that the Pembinas do not care to go up to Red Lake, and wish to know if they will participate in the common fund and not remove to Red Lake, but remain there. They will take their lands here. If they want to participate with us, they have nothing to put in the pool. Where are the funds coming from to make their share of the pool?

That is the Pembinas.

We as a tribe consolidate all our means, no matter where the Indians are located on other reservations, but the agreement with the Red Lake Indians is that no others can go there, and if they have an overplus of land, which they wish to dispose of in the future, they will have the sole benefit of the sale of those lands, which will not go into the pool.

Mr. KELLY. What is that you are reading from?

Mr. STEENERSON. I am reading from the pow-wow of the council of White Earth Reservation, when they signed the Nelson Act, before the Nelson Act took effect, and it is here pointed out that under the agreement, the other Indians could not go and share that remnant of the diminished reservation with them. They did that themselves; just exactly what I thought they did.

Mr. KELLY. Let me understand. Are you contending that the act of 1889 deliberately and specifically gave the residue of the reservation to the Red Lake Indians, or does it treat them on the basis with all other tribes, and compel the cession of their extra lands, and make it go into the Treasury for the benefit of all the Chippewas?

Mr. STEENERSON. Did I take that position? I took the position that the residue was not ceded. That it did not need to be given to them, for it still belongs to them.

Mr. KELLY. And that the act of 1904 is carrying out the plan of 1889?

Mr. STEENERSON. Exactly.

Mr. KELLY. I do not believe that meaning can be placed on the act of 1889, because it specifically makes a distinction against the Red Lake Indians. It provides that their lands must be relinquished.

Mr. STEENERSON. What do you suppose Congress had in mind when they passed the act of 1904?

Mr. KELLY. That is a complete reversal, in my judgment, of the act of 1889.

Mr. STEENERSON. They say here, when the act was being considered, whether it should be accepted or not—said this agreement provides that the Red Lake Indians should have their diminished reservation to themselves; that nobody shall go there and share it. They owned it and never ceded it.

Mr. KELLY. The law does not say so, whatever they said in council.

Mr. STEENERSON. I think that what they said at the time they signed the act really is a part of the act. I do not think there is any irreconcilable conflict.

Mr. KELLY. It is a different point than any that has been given before the committee yet.

Mr. STEENERSON. I certainly have no interest. If I had any interest at all, I would be on the other side, because most of these people live in my district, but still in good faith, having been up there, and as Maj. McLaughlin explained to them when he made the agreement——

The CHAIRMAN. The thing bothering the minds of this committee, particularly that of the chairman, is that it seems to me that the act of 1904 is a complete reversal of the law laid down in the act of 1889. Now, that is what we want somebody to clear up. You take the position that the Red Lake agreement and the subsequent law was carrying out the law of 1889.

Mr. STEENERSON. Its status was not changed. It was subject to the possessory rights of the Red Lakers. That was not surrendered.

The law of 1889 did not dispose of the diminished reservation, but it was left so it should not be shared with the rest of them.

The CHAIRMAN. Now, just make that as clear to us as you can; how you can make one conform with the other.

Mr. KELLY. There was only enough reserved to comply with the general allotment act of 1887, in allotting these Indians on Red Lake. There was no diminished reservation provided for in the act of 1889 at all, and Maj. McLaughlin states he agreed in 1902 that it was a reversal of the act of 1889, if I understood him correctly.

Mr. STEENERSON. That is an error. The diminished reservation is described in the agreement of cession. The title to that never was passed. The allotments referred to was to Red Lake Indians—not to outsiders. I did not hear the Major's statement, but I know it was in the McLaughlin agreement, which was the foundation of the act which passed, and that I went over this whole ground, and I thought the Nelson Act could be construed in harmony with that theory. At least, every Red Lake Indian believed that, and he insisted on his rights, and I have read now from the proceedings of the commission. I have not studied the Nelson Act with a view to

this particular question which Mr. Kelly has propounded, but it seems to me that it does not conflict—it does not exclude every other interpretation, and if the pow-wows and treaties were made—I will read further on the council that was held there at Red Lake.

It is now for the first time suggested that they not only contributed part, but all of their lands to the common fund.

It should be borne in mind that the title to all this vast region was acquired by conquest; it was a title by possession, not a treaty or paper title. It gave the land to the occupiers, the Red Lake Indians, and no one else. None of the White Earth Indians or Chippewas of the Mississippi occupied this land when the agreement accepting the Nelson Act was made. The other Chippewas in Minnesota were then on their respective reservations; there could be no pretense of title by possession in them of any part of the Red Lake Reservation. It was conceded Indian country, the right of occupancy which was vested in the occupiers, the Red Lake Indians, and none others. When, therefore, they ceded their right and title to the 3,260,000 acres described in the cession of 1889, it did not affect the title to what was left in their possession. In 1904 their right to this part was conceded, and the Government negotiated the McLaughlin agreement and the act based thereon confirmed their exclusive right to their present diminished reservation. Congress had a right to do that and the act was valid. The other Chippewas never having occupied any of these Red Lake lands had no right in them and could not claim any. Hence when the eleven towns were ceded in 1904 the proceeds of their sale went exclusively to the Red Lake Indians.

Section 1: The act of 1889 authorized the President to appoint three commissioners whose duty it was to as soon as practicable after their appointment "to negotiate with all the different bands or tribes of Chippewa Indians in the State of Minnesota for the complete cession and relinquishment in writing of all their title and interest in and to all the reservations of said Indians in the State of Minnesota, except the White Earth and Red Lake Reservations, and to all and so much of these two Reservations as in the judgment of said commissioners is not required to make and fill the allotments required by this and existing acts, and shall not have been reserved by the commissioners for said purposes and upon the terms hereinafter stated."

In section 3 it is provided, "That as soon as the census has been taken, and the cession and relinquishment has been obtained and approved, and ratified, as specified in section 1 of this act, all of said Chippewa Indians in the State of Minnesota, except those on the Red Lake Reservation, shall, under the direction of said commissioners, be removed to and take up their residence on the White Earth Reservation, and thereupon there shall, as soon as practicable, under the direction of said commissioners, be allotted lands in severalty to the Red Lake Indians on Red Lake Reservation, and to all the other of said Indians on the White Earth Reservation, in conformity with the act of February 8, 1887," etc.

The commissioners made separate agreements with each band. The first was with the Red Lake Chippewas, printed on pages 28 and 29 of the report of the commissioners. (Ex. Doc. No. 247, 51st Cong., 1st sess.) In this relinquishment the Red Lake Indians "relinquished and conveyed to the United States all our right, title, and interest in and to all and so much of said Red Lake Reservation as is not embraced in the following described boundaries, to wit." Then follows a description of the diminished reservation which then included the present diminished reservation and also the eleven towns embraced and ceded by the act of 1904. In the letter of the Secretary of the Interior transmitting the report, it is stated:

"The Red Lake Reservation, two-thirds of which at least is ceded to the United States, contains 3,260,000 acres and the number of Indians occupying the same is 1,168. The boundaries of the diminished reservation from which allotments to the Red Lake Chippewas are to be made are given in the report." The commissioners report that this reservation is larger than will eventually be required, but as there are swamps and other untillable lands therein it can not be reduced until after re-survey and allotments shall be made. The Secretary continues: "Whether the surplus lands that may remain after allotments shall have been completed as required by the law can be disposed of without further legislation is a question which will require consideration, but such consideration is not necessary at this time."

It should be noted that the act provides for allotments on the diminished Red Lake Reservation to Red Lake Indians only, and this is a part of the contract. To take any of these lands and allot them to Indians "not belonging to the Red Lake Reservation" is to take their lands away from them without compensation just as much as if they were taken and given to any outside citizen.

It should be borne in mind that the authority of the commissioners was limited so that they could not even negotiate for the relinquishment of the land excepted; that is to say, land which was set aside to be allotted under "this and existing acts." Allotments under "this act" are expressly limited to Red Lake Indians on the Red Lake Reservation and the general allotment act has carefully provided for allotments to Indians belonging to each reservation. The proposition advanced in the Ellsworth bill is to bring in Indians from other reservations and allot them land on the diminished reservation after the Red Lakers have been allotted. This would be clearly taking of the property of the Red Lake Indians and giving it to some one not entitled to it without compensation.

The Indian title of possession to the diminished reservation now in question has never been extinguished except the 11 towns embraced in the act of 1904, and it can not lawfully or equitably be taken away from the Red Lake Indians and given to other Indians or to anyone else. This was clearly in the mind of Secretary Noble when he transmitted the report of the commissioners when he said, referring to the unceded or part of the Red Lake Reservation, "whether the surplus lands that may remain after allotment shall have been completed as required by the law, and be disposed of without further legislation, is a question which will require consideration."

AGREEMENT WITH THE RED LAKE INDIANS.

We, the undersigned, being male adult Indians over 18 years of age, of the tribes or bands of Chippewa Indians occupying and belonging to the Red Lake Reservation, in the State of Minnesota, do hereby certify and declare that we have heard read, interpreted, and thoroughly explained to our understanding, the act of Congress approved January 14, 1889, entitled (Nelson Act), which said act is embodied in the foregoing instrument, and after such explanation and understanding, have consented and agreed to said act, and have accepted and ratified the same, and do hereby accept and consent to and ratify the said act and each and all of the provisions thereof and do hereby grant, cede, relinquish, and convey to the United States all our right, title, and interest in and to all and so much of said Red Lake Reservation as is not embraced in the following-described boundaries, to wit:

Then follows a description of the diminished reservation, that was never ceded and remains the property of the occupiers who hold it in common. The error of those who contend otherwise lies in assuming that this tract was ceded under act of 1889 when it was not.

The CHAIRMAN. Another thing the chairman can not understand is, in 1902, when Mr. McLaughlin went up there to make that agreement, if that agreement was going to be of such an advantage to the Red Lakers, why was it necessary to pay a premium to get it, which they did do. They offered them, instead of 80 acres, 160, if they would enter into the agreement. Now, I think that has some bearing on the case, too. Who was it who was so anxious about making this agreement? The Red Lakers were not asking for it at the time.

Mr. STEENERSON. The other Indians got 160, under a treaty, long before the Nelson Act. The White Earth Indians had a treaty providing for 160 acres, and the bill had been introduced and passed in the House four or five times before I got here, and finally we passed it in the House and it went through the Senate, giving them the additional 80 acres. So that the 1904 bill, giving 160 acres, was not any more than the rest of the Indians had.

Mr. KELLY. Sure; but Mr. McLaughlin, in answering a question of mine, distinctly stated the real reason why the Red Lake Indians signed the agreement of 1902 was because they were going to get just what you contend has been the interpretation of the act of 1889. If that was the interpretation of the act of 1889, surely there could be no special advantage offered to them in carrying out a law which had been on the statutes, because all those years he says they were given it and knew.

Mr. STEENERSON. I have never seen any record of the McLaughlin council. Was it printed?

The CHAIRMAN. Yes; Mr. Henderson has a copy of that.

Mr. STEENERSON. I do not know what Mr. McLaughlin told them in order to get them to sign that agreement.

The CHAIRMAN. Evidently there was something said, which the agreement and the minutes do not embody, as you have several times suggested, that we have to consider the conversation which took place as well as the written word.

Mr. STEENERSON. Yes; the conversation that has been hinted at simply does not justify any conclusion that under the law and the light of the whole proceedings that these Indians—that each tribe that occupied the land should be the ones to cede it, and they have done that from the beginning, following out the same process. That is the reason the Nelson Act provided that there should be a council with each band occupying, belonging to that particular reservation.

Mr. RHODES. Mr. Chairman, I would like to ask Mr. Steenerson two or three questions.

The CHAIRMAN. Yes.

Mr. RHODES. I understood that Mr. Kelly read from the act of Congress.

Mr. STEENERSON. 1889.

Mr. RHODES. Yes.

Mr. STEENERSON. I suppose he did.

The CHAIRMAN. Yes.

Mr. RHODES. And that you said a certain conversation took place at the time of the approval of that act, by the Indians.

Mr. STEENERSON. Yes.

Mr. RHODES. Now, do I understand you to say that the conversation that took place in connection with the consideration of the Nelson Act was as much a part of the act itself as appears in the statutes?

Mr. STEENERSON. Not as much, but it must be consulted in interpreting it.

Mr. RHODES. That is true; but is it not a fact that the terms of the act are clear and concise, and if they are, then are we not bound by the terms of the act entirely, and won't we be justified in considering any of this dictum, under those circumstances, and is it not a further fact that the only condition under which we would be justified in considering the dictum, as I might say, would be in case the terms of the act were so dubious and so hard to interpret that it would be necessary to look to other sources in order that light might be shed on the contention of Congress.

Mr. STEENERSON. While of course it is a rule of interpretation of statutes that where a thing is absolutely plain, it don't need any interpretation; if this clause he read is so plain that it don't require interpretation, then it don't have to be interpreted, but the whole context of the subject must be taken into consideration—all of its provisions—and when you take them all into consideration, I submit that no such conclusion is justified.

Mr. RHODES. Now, do I understand that there are certain questions of law in contemplation here, as would make necessary some court decision in order to decide the question, or has any court ever passed upon the question at any time that is here involved? Does this trouble grow out of the lack of interpretation of existing law?

Mr. STEENERSON. You mean whether there has been any judicial interpretation?

Mr. RHODES. Yes.

Mr. STEENERSON. Why, not on the precise point here as to what the rights of the other Chippewas as against the Red Lake Indians are, has never been before the courts for judicial interpretation. It has been interpreted by the department and by Congress. Congress has repeatedly acted upon the theory that I have suggested. They did so when they passed the act of 1854 and the act of 1863.

Mr. RHODES. I was only wondering whether there is existing law which, if construed by a court—that is, if judicial determination might be had of the question, if that might not solve the problem and relieve us of the necessity of further legislation. I sometimes fear that these repeated acts of Congress tend to complicate rather than simplify these matters. My attention was called to one other thing in the course of this conversation. I think it was made clear during the first session of this hearing that these lands have not been allotted, and I think I can see the value of the whole thing, but that perhaps some things depend upon the allotment of these lands, and until that has been done—

Mr. STEENERSON. Of course, I am speaking from a practical point of view, not from a strictly legal point of view. The reason why the Red Lake lands have not been allotted by the department is because in the first place there is the last remnant of pine timber in the State of Minnesota. Some quarters of it would probably be worth \$25,000, and there is other land that is practically worth nothing—perhaps for grazing, \$2 an acre or something like that; and then there is swamp land that you would have to spend a good many dollars an acre before you could reclaim it.

Now, the department had before it an object lesson in allotting lands of this kind, because they allotted lands on the White Earth Reservation, and some Indians got land worth \$15,000 or \$20,000 per eighty, because of the pine, and others got agricultural land or other land that was worth \$500 or \$600. There was an injustice and inequality in it, and for that reason the Red Lake Indians have continued since I have known them to object. They said, we don't want the same condition as occurred on White Earth, where there was an injustice done, and even if some of the lucky ones got \$15,000 or \$20,000, they were generally separated from it in 24 hours, so that it is not what we want, and the department has not allotted them lands because it was impossible to allot it and give a square deal to the 1,400 Indians on the Red Lake Reservation, or to the rest of them. The only way to do was to first, as Congress proceeded to do, establish this forest for the Indians, and that land is suitable for a forest, and under forest regulations you can continue to have a forest there for the Indians forever for their use, instead of skinning the land and leaving that land outside where it will wash into the lake in a few years. So that was the policy adopted on the recommendation and report of the Interior Department.

Now, they can not allot the rest of this land here. I talked with them year after year. These river bottoms here are some of them lower than the river itself in the ordinary stage. The project is to deepen and straighten this river down here to high landing, where there is an ample fall clear down to Grand Forks, S. Dak. Here is

the smaller map. I will offer that. These lands can not be drained by individuals. The engineers of the War Department, under an act of Congress, made a preliminary survey and estimated the cost of this dam to control the Red Lake at something like \$850,000, and the opening up—no, I think about half of that for the dam and the rest of it for the deepening of the river. It is manifest that no individual settler can undertake that improvement, and these lands can not be allotted in severalty and used by anybody until this project is carried out, and we are proceeding with it as best we can.

Now, that answers the question why they have not allotted them heretofore, because it was not practical. They are timbered and they should not be allotted, unless you want to commit an injustice, and the rest of them are swamp lands that have got to be first drained, and the only way to drain is before you part with the title.

Mr. KELLY. The act of 1889 provided that before any offers of lands, the allotment should be made. Now, that was the doctrine of 1889. In 1904 the act provided that lands could be sold without these allotments being made.

Mr. STEENERSON. Wouldn't it be competent for Congress to change that?

Mr. KELLY. Why was the reversal made of those policies?

Mr. STEENERSON. I would have to look up the history of that legislation to answer that correctly. I don't carry it all in my mind; but I presume there was a very good reason for it. Possibly it was the fact that it was manifest you could not sell this land in the state of nature, because nobody could use it. You would have to reclaim it first; then it will be valuable. Why, those lands, ever since the time of Adam and Eve, have been absolutely useless. If we put in that 250,000 acres inside of the reservation that will be benefited by that drainage, it will be worth in my opinion, when they are broken off and drained—will be worth from \$25 to \$50 an acre. That would be \$12,500,000. To-day they would not be worth anything. They aren't even used for grazing. It is so that at certain times of the year you can not use it for anything.

Now, you have got to take all of these physical facts into consideration, and no doubt Congress was advised in changing that law, and it was competent for it to change it. If they say we want to sell it one year, they can say we don't want to sell it the other.

The CHAIRMAN. You will concede, I assume, that these affairs of the Minnesota Chippewas ought to be wound up, and that they ought to be as quickly as possible relieved from governmental restrictions?

Mr. STEENERSON. All of those that are competent; yes.

The CHAIRMAN. Well, that is what I want to get at.

Mr. STEENERSON. Of course, there are a great many—

The CHAIRMAN (interposing). Whether you are favorable to general legislation that would look to that end.

Mr. STEENERSON. Yes; but I am not in favor of legislation that will tie up northern Minnesota for the next 50 or 100 years in litigation, and that is what this first proposition means. We could not do anything. We have just gone through a period of 10 or 12 years at White Earth where they finally, through the energy of the Department of Justice, settled most of the detail, but anybody that has lived in a country with unsettled titles knows it is like a pest, and these

suits would break out and attack lands sold by the State of Minnesota years and years ago.

The CHAIRMAN. Let me carry that a little further: Through the representation, or through the council of the recognized band of Chippewas here and there, a serious charge has been made or very serious charges have been made against the management of Indian affairs by the bureau in the State of Minnesota. Now, of course, this legislation is looking to the discharge of the Indian Bureau from the affairs of the Minnesota Chippewas. Therefore I would like to have your idea—personal idea—as to the management of the affairs of the Minnesota Chippewas through the bureau, and whether your ideas coincide to any extent with those given to us by the gentlemen to whom I have referred.

Mr. STEENERSON. Of course, I have not heard the statements made. As far as the White Earth Reservation is concerned, those people have no land left. It is all patented. Either the Indians own it or they have sold it to private owners. It is called a reservation, but it is not a reservation to my notion. There may be a few acres where there is cut-over land that is not allotted, but they could not allot very many pieces on the White Earth reservation. Those Indians are mostly mingled with the white people. A great many of them move away from White Earth—a great many of them have moved to Minneapolis.

The CHAIRMAN. Pardon me, but that is not getting to the—

Mr. STEENERSON. You were asking about the policy.

The CHAIRMAN. Yes; whether or not you and the Indians you represent in particular, and with your viewpoint as a legislator in general, you are willing to say that the affairs are being handled by the bureau up there now to the reasonable satisfaction of the Indians involved?

Mr. STEENERSON. Now, you are asking me an opinion upon a matter in controversy. The Chippewa council, so called, is made up of the brightest and the ablest among the Indians. They control that and they want to control the Chippewa Indians instead of the Interior Department, and whether you should undertake to transfer the control of the Indians to this Chippewa council or not is a very serious question.

The CHAIRMAN. That is the meat of the matter involved in this legislation.

Mr. STEENERSON. I was advised about this act of 1904, and the legislative history of that, so as to know that the different reservations were from time immemorial recognized to be the property of the occupants. I am not quite prepared to criticize the Indian Bureau. I know very little about their management of White Earth. Those are all of these gentlemen that have come here, as far as I have observed. There may be some other reservations, and they of course had a conflict there, because under the legislation recommended by the advanced Indian, everybody is competent. The Clapp amendment removed all restrictions. As a result, you all know the Indians sold their land. Some of them all right and some of them all wrong, for a song, and some 1,200 or 1,500 law suits were brought to recover the land. That is not the fault of the Indian Bureau. That was the fault of the legislation and the department did the best it could.

The CHAIRMAN. I would like to ask you two or three more questions, rather in a concise way. You are familiar with the reason why this council was elected—the present council of the Chippewas?

Mr. STEENERSON. No; I don't know anything about that.

The CHAIRMAN. Then you could not say whether they were elected by about 15 per cent of the Chippewas involved, or whether they were not?

Mr. STEENERSON. No; I don't suppose that they represented a very large part of the Chippewas. I don't know anything about it. I don't know whether they are incorporated, or what.

The CHAIRMAN. It has been stated by counsel of the Red Lake contingent who are involved here, that no more than 15 per cent—that this council does not represent the desires and wishes of more than 15 per cent of all the Chippewas involved.

Mr. STEENERSON. I could not testify as to that.

The CHAIRMAN. And that he represents 85 per cent of the Chippewas as a whole in this matter.

Mr. STEENERSON. That is a fact that I haven't followed and I don't know anything about this Chippewa council, except I have seen it mentioned in the appropriation bill, and I know that Mr. Ballinger came in to see me a while ago, when they had a \$10,000 appropriation pending, and I says, "Congress has taken away the money that supported some of these incompetents, paid the amount, and turned it over to these leaders," and I said "I am not going to advocate that." I did not pursue it any further. It looked to me as though that was kind of taking it away from those that needed it most.

The CHAIRMAN. The only thing this committee had to follow was in that matter. The council had been recognized by the bureau, and we had no knowledge whether it represented 15 per cent or 50 per cent of the Chippewas. We are trying to get from you some facts on which we can absolutely depend as to whether or not the bureau was justified in recognizing this council, and if so, whether or not the committee is justified in considering that it is the legal representative of these bands, and is justified in entering into some sort of an agreement between them and the bureau.

Mr. STEENERSON. Like every other human being, I am subject to prejudice. I haven't got any opinion as to what per centage of the Indians they represent, founded upon knowledge, and I don't like to give the committee simply the result of a conclusion arrived at from general impressions.

The CHAIRMAN. Then I want to make this observation. If you, who are in the midst of that situation up there, are confused with regard to that matter, how can you or anyone else expect the minds of this committee can be any nearer in unison in this matter, or attuned any better to that general misunderstanding than are you? We are looking to you as a representative from there to give us some guidance in the matter.

Mr. STEENERSON. Well, it is a difficult position for me, because I have not investigated as to this precise question. Now, the White Earth Reservation is in my district. I think that the vast majority of the Indians on the White Earth Reservation are able to take care of themselves, and that so far as that percentage is concerned, they ought to be released from the jurisdiction of the Interior Department.

I think they would be benefited by it, but the Red Lake Indians are not so far advanced. They have always lived in tribal relations, and if you should treat them like you do the advanced White Earths, you would commit an injustice, and I don't know whether the Red Lake band would be competent to hold an election to select—maybe they are if it is properly presented to them. As to the other bands—those are the only two bands I know of. At least half a dozen other reservations of Indians—the Cass Lake. I have heard they are pretty near blanket Indians up at Cass Lake. If I was on the committee, I would require good, substantial evidence before I would decide anything against the Interior Department. I would not go on the presumption that they were wrong and that these others were right. I would have to have evidence. And it seems to me upon these questions that this committee ought to and could possibly have a representative committee go and investigate—a man that is reliable, or three men, or perhaps if you could spare the time of three members of this committee to go and investigate this whole question on the ground, it would be advisable. I would not take the responsibility.

The CHAIRMAN. It is a very large tract of ground to cover.

Mr. STEENERSON. Then you ought to have some one appropriate that would investigate. I ought to know more about the actual condition of the Indians in these two reservations than I do, but I haven't visited them in several years.

Mr. RHODES. Mr. Steenerson, you do not need to feel badly about your inability to offer a proper solution of this trouble, for the reason that Mr. Meritt stated before the committee a few days ago that while they recognized this general council to a certain extent that the department recognizes there is merit in the contention of those who do not agree with the council, and it was pretty hard for me to determine under the precise question that I employed in order to try to determine just how far the Indian Office itself was willing to go in its recognition of this council, and I drew this conclusion, that the Indian Office recognized this general council only to a limited extent; that, on the other hand, it indicates it recognized the wishes of the masses of Indians to a certain extent. So far as any decision on the part of the department at least there is lack of ability to determine just who ought to control, whether it be the council on the one hand or the voice of the Indians at large on the other. At least that is the impression I got.

Mr. STEENERSON. Well, I don't know.

Mr. RHODES. And it looks as if this committee ought to be assisted by somebody in such a way as to arrive at the facts in the case. I would like to know first whether this council reflects the views of a fair percentage of Indians. I should like to know whether they are able and willing to manage the affairs for the best interests of the Indians. I should like to know if there is a better method of meeting the wishes of these Indians than through the council. As far as I have been able to see the department is in doubt just as to what should be done in that regard.

Mr. STEENERSON. Well, of course, the assumption underlies your question that the Indians who have appointed this council are competent for self-government, and if they are, then their representatives of course should be recognized, but that is a very serious question.

There are some that are and some that are not. The question then is would you turn over the management of the affairs of those who are not advanced enough to those that are advanced and as shrewd business men as there are in the country; whether it would not be like turning the lamb over to the wolf.

Mr. RHODES. Has the time come when the affairs of this tribe should be turned over to the tribe itself or should the Government still continue to exercise dominion over them?

Mr. STEENERSON. That is also based upon an erroneous assumption, in my mind. You say turn over to the tribe itself. The work of all this legislation for the past 16 years has been to wipe out the tribal relations and make them American citizens, and still for the purpose of this thing you are going to recognize the tribal Indians. As long as there are tribal relations, it seems to me that the United States is the guardian and must manage the affairs. I never heard of the tribal relations being continued after the purpose for which it exists has ceased. This council seems to represent the tribes.

Mr. RHODES. Do you think the time has come when the Government ought to wind up the affairs of these Indians—discharge them?

Mr. STEENERSON. Some of them, most emphatically.

Mr. RHODES. Isn't the Government doing that now?

Mr. STEENERSON. I don't know; I don't think so, as to the Minnesota Chippewas. Of course they have authority to grant a man a certificate that he is competent to dispose of his property, but there should be, perhaps, some further legislation on relieving these competent Indians from Government jurisdiction, and when they are relieved they should not be at the same time taking charge of the furloughed Indians who are incompetent.

Mr. RHODES. Then your opinion is, as a whole, that they have not reached the point where they should be adjudged competent?

Mr. STEENERSON. I don't think that the Red Lake Indians, with whom I have had more to do than any other tribe—I don't think they are competent. I don't believe they think so themselves. They think that these same White Earth Indians will come up there and get the best of them. That has been the burden of their song every time I have seen them. They say, "Don't give the White Earth Indians a chance any more to beat us, the same as they handled the affairs of the White Earth."

The CHAIRMAN. Mr. Steenerson, Mr. Meritt desires to make a short statement here with regard to the questions Mr. Rhodes has just been asking, thinking there has been some misunderstanding which he would like to clear up.

Mr. MERITT. I did not want to create the impression in the mind of any member of the committee that in recognizing the general council, we converted any administrative jurisdiction on that council whatever. We would oppose absolutely the general council having any administrative functions over the Indians of the Chippewa country, and I think that Mr. Steenerson has expressed very clearly what would happen if that were done.

The CHAIRMAN. Now, Mr. Steenerson, a moment ago you suggested the sending of a commission up there on the ground. Now, I just want to call your attention to the fact that in 1892 the Government sent out the best man in the service at that time, and a con-

cededly able man, to make an agreement, which agreement was made, which was supposed at that time to straighten out the difficulties for the future, and in reality it is the difficulty that is here before us to-day—that very agreement which was so made. Now, what reason would we have to expect that we, if we sent another commission there, that it would be any more efficient in bringing about a more satisfactory agreement than that one?

Mr. STEENERSON. Well, I did not suppose that you were having in mind a commission to make contracts with the Indians. What I had in mind was an inspector, or somebody to go up there and find out the facts that are in dispute here.

The CHAIRMAN. That same thing has occurred to practically every member of this committee, but it seems hopeless because there are so many conflicting interests and it seems to me that we will never be able to get legislation that will work out satisfactorily to all the parties.

Mr. STEENERSON. Well, the question was asked me about the representatives of the Red Lake Indians claiming to represent 85 and the council representing 15, and I was asked to express my views on that, and I told them I did not know what percentage each one represented, and that the question, if it was necessary to determine it, should be found out by an investigation on the ground.

The CHAIRMAN. When the council comes down here, you mean you recognize it as containing the ablest men among the Indians, and then the Red Lake Band comes here with a representation which probably is as representative of the higher type of men of the band—as high type members of the band as you could get together—and why is not the testimony that we would get from them just as competent as any that we could get from anybody else, even if we could be up there?

Mr. STEENERSON. Then the question before you is a question of credibility, which side is right and which side is wrong?

The CHAIRMAN. That is the only way it seems to me that this committee can operate, and if it does do anything, it must legislate upon the best information it can get.

Mr. STEENERSON. Well, I believe that you could, by sending an inspector up there, you could find out where the truth was as between those two statements.

The CHAIRMAN. Well, perhaps you could. Is there anything further you desire to say on the question?

Mr. STEENERSON. No; I did not prepare for this occasion.

The CHAIRMAN. Do you want to give us a final word in conclusion as to what you think you should do with regard to this legislation now?

Mr. STEENERSON. No; I don't think I am competent to do that. I was only aware of this bill yesterday, and I understand now it is not really the last version of the bill, but I saw at once that it would affect adversely the interests of northern Minnesota. It would tie up the titles, and the bill provides, I think, for adding names to the list of Chippewa Indians. While I have lived there now all of these 40 years, I have never heard of any occasion for bringing in any new Indians on this roll. They took a census under the Nelson Act of everybody, and it seems to me that would open a very wide door, and

then they would have perhaps 400 or 500 claiming they belonged to that and admit them, and then each would get 160 acres of these lands here. That seems to be an unsafe proposition. I would rather leave that to the Interior Department, and they have to determine the applications in addition to the rolls there. I should think that would be a very dangerous proposition. I only came here because I thought this would adversely affect the interests of that whole country, not only the Indians but the advancement of the whole region there and indirectly affect the Indians.

The CHAIRMAN. When you say this, you refer to proposed legislation?

Mr. STEENERSON. Yes; beclouding all of these titles. I would rather have it proceed under existing law.

Mr. RHODES. Before Mr. Steenerson goes, I would like to ask Mr. Meritt one question, if he can answer it. Would you state briefly, Mr. Meritt, just how far the department goes in recognizing the action of this general council in the affairs of the tribe?

Mr. MERITT. We simply recognize the general council to the extent of making recommendations. Our experience has been that the general council are making recommendations that are opposed by a very large percentage of the Chippewa Indians, and are against the best interests of a large percentage of those Indians. We will consider their recommendations at any time, but we will oppose vigorously any legislation that would place administrative functions in that general council.

Mr. RHODES. Then you do not rely upon the general council for your information in dealing with all questions affecting the tribe?

Mr. MERITT. We do not, and under no circumstances would we do it.

Mr. RHODES. Then, what are some of the questions on which you get information from other sources?

Mr. MERITT. We get information from the superintendents of the reservation, also from all Indians of the Chippewa country who are constantly writing the Indian Bureau, and they have this right to do so. We are glad to have them furnish us any information. We also get information by sending inspectors in the Chippewa country, but, Mr. Rhodes, we want to make it perfectly clear that the general council has no administrative functions and we would not permit with our consent that they should have.

The CHAIRMAN. In other words, you simply consult with the council.

Mr. MERITT. We are glad to consult with them and glad to have their views, but their views are not controlling with the Interior Department by any means.

The CHAIRMAN. You would not want to state that you consider their recommendations on the same basis as the President considers the recommendations of the Secretary of State?

Mr. MERITT. I would not want to make any comment as to that statement.

The CHAIRMAN. Who is the next witness that desires to appear?

STATEMENT OF MR. FRANK B. BEAULIEU.

Mr. BEAULIEU. Mr. Chairman, my name is Frank B. Beaulieu. I live at White Earth, Minn.

I want to state here that the general council, with which I have been connected a good many years, has been the object of a lot of slurs and reflecting remarks upon the integrity of the people who compose—who are the leaders of this council—and it has gotten to such an extent that nearly everybody who don't know the situation hears from some one that has been displaced. It is what we call the minority comes in here and makes these statements. Now, I know Mr. Steenerson. He lives in my district, and I have worked hard for the man, and while I believe that he has done what I thought was best for the Indians while I have known him, I am amazed at his attitude this morning. I want to say that I take exception to a good many things he has said regarding the personnel of this council.

Now, we are here, and if Mr. Steenerson thinks there is anything wrong he ought to sit up right here at this table until it is over with. We always show our hand. We don't go behind in any way, and we have convinced the Indian Bureau within the last two years that a great number of the administrative services up there in the schools have been a waste of Chippewa funds and unnecessary, and on our recommendations those things have been abolished, and upon our recommendation great changes have taken place in the last three or four years.

Now, I want to say I take exception myself, as one member of that legislative committee, to any remarks or insinuations that have been made here this morning. I think if Mr. Steenerson has any doubt about these things it is his duty to sit here at this table and listen to the discussion of this bill.

Mr. STEENERSON. What bill is it, the one introduced by Ellsworth?

Mr. BEAULIEU. Mr. Knutson's bill. Mr. Knutson introduced the bill. Ellsworth introduced the bill first.

Mr. STEENERSON. H. R. 12103 is the one I referred to.

The CHAIRMAN. The committee will be in order, and if Mr. Beaulieu has made the statement that he desires to make, we won't pursue that matter any further.

Mr. STEENERSON. No; I would like to say the bill I was talking about is this bill that was handed me yesterday.

The CHAIRMAN. Mr. Steenerson, if you are just going to attempt to answer his statement—

Mr. STEENERSON. No; I am simply explaining that I have not read the other bill. He admits that I sit here—I don't—I had better go and read the bill before I criticize it. I understand this is not the bill you are considering.

The CHAIRMAN. In a measure we are considering a determination of the Ellsworth bill, and the results of the efforts of the council which has been in session here with the bureau.

Mr. STEENERSON. I suppose I may be permitted to say that I did not intend to reflect upon the gentlemen.

The CHAIRMAN. As chairman of the committee. I would like to say he does not cast any reflection upon the integrity of the council in any way. In fact, you spoke of them as being the most able men.

Mr. BEAULIEU. He said something about turning the sheep over to the wolves.

The CHAIRMAN. You ought not to take that too seriously. I think that was just a slip of the tongue. Gentlemen, we will conduct the hearing in a regular way, with quietness, or we will adjourn it—one or the other. We will at least ask the spectators to pay us the compliment of letting us proceed in an orderly way.

Mr. KELLY. Mr. Chairman, I would like to ask Mr. Beaulieu, a member of this general council, a question or two.

The CHAIRMAN. Mr. Beaulieu, we would like to have you come over here as a witness.

Mr. KELLY. You are a member of the general council of the Chippewa Tribe?

Mr. BEAULIEU. I am.

Mr. KELLY. How is that council elected?

Mr. BEAULIEU. This so-called general council was incorporated as a voluntary association in 1913, in May, at Cass Lake, Minn. In Minnesota we have—we had at one time 11 different tribes or bands that were all of the Chippewas of Minnesota, but there are 11 bands living at different points. It was difficult in those days to get legislation. We were trying for years to get certain legislation to correct conditions up there. One band would send a delegate down and another band would send a delegate down, and there was all conflicting views when we got to Washington, so we never got anywhere; so we conceived the idea that these bands ought to all get together in one body, similar to Congress, where all the conflicting views could be heard in the meeting and discussed, so that the majority might arrive at a proper conclusion and a proper course to take with legislation, or for anything that might be for the welfare of the Chippewa Indians. This council, as I say, was organized in May, 1913. A call was sent out to each reservation, requesting that they send delegates.

Mr. KELLY. That included the Red Lake Indians?

Mr. BEAULIEU. That included the Red Lake Indians, White Earth, Cass Lake, Portage, and others. I was in school at that time.

Mr. KELLY. And the call was sent out to the reservation?

Mr. BEAULIEU. Yes. They met and they discussed the advisability of forming this council.

Mr. KELLY. How were the representatives elected in the various tribes?

Mr. BEAULIEU. On each reservation a local council was held, at which all of the Indians on that reservation were notified that on a certain date delegates would be selected to send to this general council to be held. So the local reservation—for instance, White Earth was notified that they should send delegates. I do not think at that time there had been any special number of delegates that were selected to be sent from each reservation. Each reservation sent so many, but the organization met with these various delegates and formed the constitution and the by-laws. Then after the constitution and by-laws were formulated and agreed upon by the council, the representation was this, that every band or tribe should have one delegate for every hundred or a fraction thereof of population on their local reservations. For instance, the White Earth reservation, which is the largest reservation in Minnesota, has somewhere in the neighborhood of 6,200 Indians; so they will be entitled to one delegate for

each 100, or 63 delegates to this general council, and the same with Red Lake. Red Lake has something over 1,100 Indians. They would be entitled to 11 delegates to the general council. Leach Lake has 800 or 900. They would be entitled to 9 delegates.

Mr. KELLY. How often were those delegates selected by the local council?

Mr. BEAULIEU. They are elected each year, on the second Tuesday in June.

Mr. KELLY. Is the response on the part of the local tribes general in electing delegates?

Mr. BEAULIEU. Yes, sir; I might say that last year there had been statements, as you have heard to-day, that we fellows—the able men, the intelligent men of the tribe—are running things and are maneuvering things and hold this majority through improper practices. We were here last winter before Congress, and the minority in our council was here also, and things were of course in a very chaotic state, as Mr. Meritt knows; so on account of this conflict between the two delegations, the minority and the majority of that council, we were unable to get anywhere very much. The Indian Office would not recognize any recommendations that we made; so it was agreed upon that we would have one general council, or one local council to select delegates to the next general council held in July, 1919, and particular care should be taken that every Indian on each reservation should attend this council and make his wishes known. This proposition was agreed to between the contending factions, who were here last year. One of our members agreed to it and two of the others agreed to the same proposition, that they would hold the proposition on a certain date and whichever faction won should be recognized. Pursuant to that we held a council on the 17th of June. I might say for the mixed breeds, as we are termed up there, and the progressive faction, the wealthiest, whichever you may call it, we of course took every pains to see that every one of our people who were people that favored the progressive tendencies, were there, and Mr. Dickens, who was superintendent at the agency at White Earth, told us that he would see every full blood and very nearly every full blood would be there.

Now, he said it would be poor politics if you did not do the same. It is a test this time. Whoever wins will be elected. I want to settle this question for once and all time. Anyhow, I think that nearly every old Indian and nearly every full blood—the fellows that represented the minority on the White Earth Reservation—were there. They had camped there for four or five days in advance of our holding the council and were having dances, and of course, as is always done in Indian gatherings of this kind, rations were given out by the Government. The result was that our people in the majority were over 200. I think the votes was something like 427—455 to 217. Consequently we were chosen as delegates to go to this council at Red Lake.

Mr. KELLY. The other tribes had the same experience?

Mr. BEAULIEU. The other tribes had the same experience, and the superintendent was notified to get every Indian there at this local election, so as to insure a proper election of the delegates to the general council, and insure against any crooked practices or anything

of that kind. Now, Mr. Dickens, the superintendent at White Earth, presided at this council held on the White Earth Reservation, and I think that this committee ought to have the complete reports of that meeting. I think that—not because I am stating it, but I think it is pretty near what I say.

Mr. KELLY. After those local elections were held in the various tribes that elected delegates, as you have stated, they came to the general council?

Mr. BEAULIEU. At Cass Lake.

Mr. KELLY. Has that been held?

Mr. BEAULIEU. Yes.

Mr. KELLY. Who was in control of the general council?

Mr. BEAULIEU. Oh, we called them the progressive Indians.

Mr. KELLY. They named the officers and transacted the business?

Mr. BEAULIEU. Yes; however, the fellows that lost out at the local council at White Earth, they went out into a gathering of their own and elected a council, that they said they would call a general council. They came to Cass Lake and tried to get in. They were not recognized, because they had been beaten at their local reservation, and Mr. Dickens, following instructions, told them they could not be recognized, so they went out, and they had a minority on each reservation get together and they elected Mr. Caswell here their president and they incorporated under the laws of the State of Minnesota.

Mr. KELLY. What percentage of all these Indians does this real general council you have spoken about represent?

Mr. BEAULIEU. I do not know. It represents the majority, but I am not prepared to state the percentage. I knew that from the election.

Mr. RHODES. Mr. Kelly, for your information, if you will permit it, I think that the history of these meetings was gone into fully at a hearing some time last fall, was it not, at which you appeared and made a statement, Mr. Beaulieu, or did some former member? Is this the first time you have ever given a statement?

Mr. BEAULIEU. This is the first time I have ever given—

Mr. HERNANDEZ. There has been the same information given to a committee prior to this.

Mr. BEAULIEU. Yes. Mr. Chairman, I think the committee ought to have the report of Mr. Dickens on those elections. We have asked for them, but we have been told that they are confidential. I don't know what they contain. We are willing—

Mr. KELLY. When the chairman returns he will take that matter up.

Mr. HERNANDEZ. They are filed with the bureau, are they not?

Mr. BEAULIEU. Yes.

Mr. HERNANDEZ. The proceedings that you speak of are filed with the Bureau of Indian Affairs, are they not?

Mr. BEAULIEU. Yes; they are here.

Mr. RHODES. Mr. Beaulieu, may I ask you how many of the bands were represented in the council to which you belong?

Mr. BEAULIEU. Well, last year, on account of the trouble on account of the defeat of the older fellows—the so-called full-bloods, the near full-bloods, some of them, would not come to the council.

Mr. RHODES. How many members does your council consist of?

Mr. BEAULIEU. Our council would probably consist, if they were all attending, of possibly 120 delegates. Last year I think there were some 97—nearly 100. We have the proceedings of our council here—a certified copy—and we would furnish it if the committee wants it. It will give the exact figures.

Mr. KELLY. It is a hopeless task, Mr. Beaulieu, to get this minority to realize that government means majority rule?

Mr. BEAULIEU. Yes; it has always been that as long as I have lived on the White Earth Reservation. That has been my experience. They don't realize that, and when our strength at the local council at White Earth last June was manifest to these old fellows, they insisted that we give them half the delegates to the general council, without voting. Of course, we would not consent to it. It was not representative government.

Mr. KELLY. You think that as far as the full-bloods and the old men on the reservation are concerned, they do not realize what representative government means?

Mr. BEAULIEU. I do not believe they do.

Mr. KELLY. I will state, Mr. Chairman, that Mr. Beaulieu asks that the proceedings of the general council at which Mr. Dickens was present, in July, be printed in the record.

The CHAIRMAN. Is the copy at hand?

Mr. KELLY. He stated the copy was available at the Indian Office, but had been considered confidential.

Mr. MERITT. Mr. Chairman, the commissioner considers reports of inspector's—inspecting officials—as confidential information as a usual thing, and we do not give out these reports to inquiries from general sources. However, I am quite sure that if this committee wants those reports they will be available.

The CHAIRMAN. Well, the committee will consider that at an executive session, whether it requires it or not. Who is next?

Mr. MERITT. Mr. Caswell was referred to and he is here.

STATEMENT OF MR. BENJAMIN CASWELL.

The CHAIRMAN. Will you kindly state to the stenographer who you are and whom you represent.

Mr. CASWELL. My name is Benjamin Caswell. I belong to the White Earth Reservation, but reside—my residence is at Cass Lake. I represent the people who we call full-blood Indians, but they compose both full-bloods and mixed bloods. I don't know just where to begin—where the committee would like me to begin—but if you will allow me to make a statement, I think if I get my wits about me—I am new to appear before distinguished bodies like this.

The CHAIRMAN. Just proceed in your own way and be as free as you see fit. If you prefer to sit down—

Mr. CASWELL. All right. Well, I will stand a little while. It seems to me the committee wants to know the bone of contention of these two factions, and it has not been touched on from my own point of view up to this date. Mr. Ballinger read a treaty, and one of the treaties he read was the treaty of 1854, September 30. Prior to that treaty we were one nation. We were known then as a nation. In that treaty we were separated and known as the Chippewas of

Mississippi and the Chippewas of Lake Superior. The Chippewas of Lake Superior are to-day known as the Wisconsin Chippewas, and the Chippewas of Mississippi are the ones now opposing the Chippewas of Minnesota. In that treaty it provides that all our rights as the Chippewas of Mississippi are relinquished on the Wisconsin side, for the interest of the Lake Superiors, and in return the Chippewas of Lake Superior relinquish all the rights on the Minnesota Chippewa property. Now, who are those people? That is the main point. In that treaty, article 2, in section 7 referred to, it provides that all Indians of mixed blood, over 21 years old, shall have 80 acres of land, or the head of family—that is for mixed-bloods—and a lot of people availed themselves of that right, and thereafter they became known as the mixed bloods, descended from all other Indians, and we have a document here. Now, these people went to work and they were Lake Superior Chippewas before they received those lands, and they got it with proper witnesses, and they then identified who they were and where they belonged.

The CHAIRMAN. Whom do you mean by "these people?"

Mr. CASWELL. The mixed bloods, as described in that article 2, section 7; and we have here a House document—I think it is numbered House Executive Document No. 193, Forty-second Congress, second session.

Now, that disposes of that matter who these people are, and in the course of time—they were not then as bright as they are to-day. They sold and disposed of their property, and since their act of taking that advantage they relinquished their rights as members of that particular tribe—that is, the Wisconsin Indians—and by siding in with them they have relinquished all of their rights on the Minnesota side, but since they could not go back on the Wisconsin side, they roamed about different sections of land, employing themselves at various occupations. The majority of them—I think those I am speaking of now—are employed among the traders. When they are trading, they go to the Indians with those people that go to the Minnesota Indians, and they live there among them, and these people who we call the mixed bloods got in on the Minnesota rolls some time later—we don't know just when, but here is the book that tells those people's family names. That can be easily identified, and those are the ones that have got control of our Minnesota affairs to-day.

Mr. KELLY. You mean they have the general council?

Mr. CASWELL. Yes; the gentleman that stood here belongs to one of those people here. His ancestors have relinquished all of their rights. This is one of the reasons we can not consent. Those people have no legal rights to manage our own affairs to our detriment. Here is a book or volume that tells the whole history, how we were turned over once to their way of thinking, how we were committed. It is their instanced—the same people that laws were enacted—that is, gave misleading information so that Congress enacted those laws, representing that every Indian was competent to manage his own affairs. That is abundant proof that they can not manage their own affairs to advantage.

The CHAIRMAN. Then you maintain that Mr. Beaulieu, who has just spoken here, is not a legal member of any of those bands up there?

Mr. CASWELL. Minnesota bands; yes, sir.

The CHAIRMAN. And that he is illegally in that respect a member of the recognized council?

Mr. CASWELL. Yes.

Mr. KELLY. And you further maintain, Mr. Caswell, that such illegal members of these bands have exerted influence enough to control a majority of the votes of all the tribe?

Mr. CASWELL. Not majority. I will explain that now, when we speak of the Chippewa Indians of Minnesota from our point of view we speak from the—as governed by the treaty of 1854, 1855, 1856, 1863, 1864, 1867, and 1889. Speaking under those treaties, we call ourselves the Minnesota Chippewas, but the gentleman who stood there, and some of the fellows that he represents, we do not speak of them as such. They are Chippewas, Indians of Minnesota as residents, not as members of the Chippewas of Minnesota, according to these treaties I have cited.

Mr. KELLY. How did these men get placed on the rolls?

Mr. CASWELL. Yes, sir; be very glad to tell you that. The treaty of 1855 provides that any employee of the Government who resides among the Chippewa Indians who has, will not be permitted to reside among the Chippewa Indians without a family. That is to protect the moral conditions among the Indians, and some of those Indians of those mixed bloods, I think probably his ancestors were employed as employees. Of course, they would have to take their families with them when they were employed, as interpreters or as farmers or as a policeman, and they remained there until this date; and we don't know when they got in on the rolls. We even—I have seen the white man signing the pay roll once. At least, we consider him to be a white man. The Indians protested.

Mr. KELLY. Were these employees of the Government, under the Indian Bureau, residing on the reservation?

Mr. CASWELL. Yes, sir.

Mr. KELLY. So that really the ancestors of these men were Government employees from Indian reservations?

Mr. CASWELL. Well, some of them did take allotments too. All of these things are backed by records. I don't want to make any statement that is not backed by records. I don't want to reflect on their personal character. Of course, those people are not responsible for the conditions that exist. Perhaps they don't know they are of that status, and I gather my information from the old Indians in their talk, and I have verified it by reading the treaties as I have cited.

Mr. RHODES. Mr. Chairman, will the gentleman give the stenographer the title of this book, or those two books that he offers there?

Mr. CASWELL. That is the Graham investigation.

Mr. RHODES. Is that in the record?

The CHAIRMAN. Yes, a reference to it is in the record. Gentlemen, the time for intermission has arrived, and unless there is objection on the part of the committee, we will not convene again until Monday morning at 10.30, and the committee will stand in recess until then.

(Whereupon, at 12.30 p. m., an adjournment was taken until Monday, March 15, 1920, at 10.30 a. m.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Monday, March 15, 1920.

The committee met at 10.30 o'clock a. m., Hon. Homer P. Snyder (chairman), presiding.

The CHAIRMAN. Gentlemen, a quorum of the subcommittee being present, we will resume the hearings, and before starting with the witnesses I desire to see if we can find out at this time how many more there are who desire to testify with regard to this matter.

Mr. MERITT. Mr. Chairman, there are two Red Lake Indians here who would like to testify, and I think probably three other Indians from the Chippewa country, Mr. Caswell, Mr. Walters, and Mr. Broker from the White Earth Reservation. I do not know whether this old Indian here [indicating Wah-bee-zha-shee from Leech Lake] wants to say anything or not.

The CHAIRMAN. I am very anxious to close the debate on the hearings to-day, and then I desire to put in one day on the bill itself, with all the extraneous matter cut out, and I would like to try to fix now, if we can, the time that these gentlemen desire to discuss this matter, and the witness that we finished with on Friday afternoon will undoubtedly desire to go ahead this morning, if he is here, and if you will just step over here now we will just see how much time you desire in the matter. I am making this statement, not with the view of cutting off anybody who has any information to give us, but it seems to me that as we have other pressing matters following this matter we have given about all the time we can at this time if we take to-day and to-morrow. How much time will you require?

Mr. CASWELL. It depends on what the committee wants to find out.

The CHAIRMAN. It depends on what you want to tell us. I doubt whether a question of the enrollment, or legality of these men who are here will have much weight in the matter, since that is all of such a distant date that it would seem to me that we ought to deal with the matters that will assist us in coming to a conclusion, with a view of closing up the matter.

Mr. MERITT. I agree with you that we ought not to take much time on that matter, because it has been settled by the department in a decision.

The CHAIRMAN. So if you will go ahead, say, for 15 minutes more, and just give us the salient points of your argument.

Mr. RHODES. Does he want the rolls opened up again?

The CHAIRMAN. He has made the charge here that certain recognized men on the council have no right to be on the roll at all.

Mr. RHODES. Then he wants the names stricken off?

The CHAIRMAN. No, he does not ask us to do that. That would be a complication of the matter; but since that matter has been settled by a determination of the department it seems to me that it is beyond us to do anything with it.

Mr. RHODES. In other words, what you suggest, Mr. Witness, seems to be more in the nature of a general complaint, without stating positively what you want to do. Now, if you think there are names on the roll that you think should be stricken off, say so.

The CHAIRMAN. And file a list of such names.

Mr. RHODES. If there are names that you think ought to go on the rolls, say so, but simply to make a general complaint without being definite and certain as to the nature of the complaint, would not do you any good, neither would it help the committee very much. I am saying this to help you.

The CHAIRMAN. And if he desires to, when he completes his remarks, he can put into the record the names of such men as he thinks, according to his judgment, are illegally on the roll.

Mr. MERITT. May I place in the record the decision in this matter?

The CHAIRMAN. Yes; it is so ordered.

Mr. MERITT. The decision referred to is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, January 29, 1916.

Complaint having been made on the part of certain alleged full-blood Indians of the White Earth Reservation that there were names on the rolls of that band not properly there, notices were sent to 86 persons, thus indicated as being improperly enrolled, under date of November 25, 1911, signed by the Commissioner of Indian Affairs and approved by the First Assistant Secretary of the Interior. These notices recited the allegation that the parties were unlawfully upon the list of Minnesota Chippewa Indians, not being originally members of any Minnesota tribe or band by birth, and not having become so by proper or legal adoption. The parties addressed were required to show cause why their names should not be stricken from the rolls, their allotments canceled, and the amounts which they had received in the way of annuities and other payments, returned to the tribe. Such notices further advised them that they had been suspended from all of such lists and from participating in any payments, annuities, or other benefits.

Answers were made to these notices, in some instances in person, and, in others, by attorneys; all denying the charge, and some, if not all, denying the jurisdiction in the department to strike from the rolls any name placed thereon by the commission, acting under the act of January 14, 1889 (25 Stat., 642). After these answers came in a representative of the department was sent to the reservation to make an investigation. He required a formal complaint to be made, over the signature of full-blood members of the tribe. This was subsequently done; such complaint being verified, and containing substantially the charges made in the notice of November 25, 1911, though with considerable elaboration. Copies of the complaint were served upon the 86 persons to whom notices had formerly been sent, who filed answers denying the charges, and again asserting lack of jurisdiction in the Secretary of the Interior. Subsequently, voluminous testimony was taken by the investigator.

It was decided to submit the matter to the Court of Claims and, with the acquiescence of all the parties interested, this was done by department letter of February 28, 1915, reference being made to section 148 of the judiciary act of March 3, 1911 (36 Stat., 1087, 1137), as affording authority for such action. The court was advised that the record was submitted for "findings as to the matters of fact and your opinion as to matters of law, together with your conclusion thereon, for the use and benefit of this department in the premises." The court held, in substance, that it had no jurisdiction to render advisory opinions in such matters. The request was thereupon amended, and the court rendered final decision under date of December 21, 1914, wherein, after discussing at some length the question of jurisdiction, concluded that it had no jurisdiction of said claim or matter, and returned the record to the department.

Elaborate briefs have been filed before the department, discussing the jurisdiction of the Secretary, as well as the merits of the matter. Oral arguments have also been heard. The question of jurisdiction has been presented and insisted upon at various stages of the proceedings, and must be considered and determined, before any consideration need be given the merits.

It is not necessary to cite the various treaties and their provisions to which the Chippewa Indians were parties, entered into from 1785 down to 1867. For the present, at least, it will be only necessary to consider the act of January 14, 1889. That act provided, in section 1, for a commission, to be appointed by the President, to negotiate with the different bands or tribes of Chippewa Indians of Minnesota, for the cession and relinquishment, in writing, of their title and interest in and to all the reservations of said Indians in that State, except the White Earth and Red Lake Reservations, and all of these two reservations not required to make and fill allotments provided for by that and other existing acts.

A roll was to be made by said commission—the provisions therefor reading:

"And for the purpose of ascertaining whether the proper number of Indians yield and give their assent as aforesaid, and for the purpose of making the allotments and payments hereinafter mentioned, the said commissioners shall, while engaged in securing such cession and relinquishment as aforesaid and before completing the same, make an accurate census of each tribe or band, classifying them into male and female adults, and male and female minors; and the minors into those who are orphans and those who are not orphans, giving the exact number of each class, and making such census in duplicate lists, one of which shall be filed with the Secretary of the Interior, and the other with the official head of the band of tribe; and the acceptance and approval of such cession and relinquishment by the President of the United States shall, be deemed full and ample proof of the assent of the Indians, and shall operate as a complete extinguishment of the Indian title without any other or further act or ceremony whatsoever for the purposes and upon the terms in this act provided."

Section 3 of the said act provided that as soon as the census should be taken and the cession obtained and approved, as specified in section 1, all of said Indians, except those on Red Lake Reservation, should be removed to the White Earth Reservation, and be allotted lands in severalty.

This was to be done under the direction of said commissioners. Section 4 provided for the survey and classification of the lands into pine lands and agricultural lands. It is not necessary now to notice the provisions of the other sections of said act.

The commission provided for was duly appointed and proceeded with the work confided to them. A report of their work is to be found in House Executive Document No. 247, Fifty-First Congress, First Session. Agreements were secured from each tribe or band, which were approved by the President March 4, 1890. Census rolls of the several tribes were compiled, upon which appear the names of all the 86 persons then living, and the names of the ancestors of those not then in being. The report of the commission shows also that the Indians had part in the making of the rolls; and were given full opportunity to object to any name thereon.

The work of removing the Indians to White Earth Reservation and of making allotments to them was proceeded with, but not yet completed when, in the act of June 10, 1896 (29 Stat., 321, 326), it was provided that the duties imposed upon the three commissioners should, from and after that time, be performed by the commissioner, to be designated by the Secretary of the Interior. The act of June 27, 1902 (32 Stat., 400), amended sections 4, 5, and 7 of the act of 1889, but did not change section 1 of the said earlier act, except as provided in section 5 of the act of 1902, which reads:

"That the Secretary of the Interior shall proceed as speedily as practicable to complete the allotments to the Indians, which allotments shall be completed before opening the agricultural lands to settlement."

The act of April 28, 1904 (33 Stat., 539), authorized the President to allot to each Chippewa Indian "now legally residing upon the White Earth Reservation," 160 acres of land, with the proviso that where any allotment of less than 160 acres had theretofore been made, the allottee should be allowed to take an additional allotment which, together with the land to be allotted, should not exceed 160 acres.

It is urged in support of the contention that the Secretary has no authority now to disturb the rolls made by said commission, or to eliminate therefrom any name for reasons existing at the time of such enrollment, because the making of said roll was confided to that commission as a special tribunal. It is urged, on the other hand, that the Secretary has jurisdiction, because of his general authority over Indian matters.

Section 441 of the Revised Statutes confides to the Secretary of the Interior the supervision of public business relating to various subjects, among which are "The Indians" and "The public lands, including mines." Section 463 provides that the Commissioner of Indian Affairs shall, under the direction of the Secretary of the Interior, "have the management of all Indian affairs, and of all matters arising out of the Indian relations." The Secretary has jurisdiction over such matters in all cases where no other provision is made. The power of Congress to confide such supervision to other tribunals can not be questioned.

In reference to duties connected with the control and disposition of public lands, the Supreme Court laid down the rule in *Catholic Bishop of Nesqually v. Gibbon* (158 U. S., 155-167) in the following words:

"It may be laid down as a general rule that, in the absence of more specific provision to the contrary in respect to any particular grant of public land, its administration falls wholly and absolutely within the jurisdiction of the Commissioner of the General Land Office, under the supervision of the Secretary of the Interior. It is not necessary that with each grant there shall go a direction that its administration shall be under the authority of the Land Department. It falls there, unless there is express direction to the contrart."

The same words might well be used to define the authority of the Secretary of the Interior in respect to Indian matters. This is so well settled that it seems hardly necessary to cite authority in support of the proposition. It may be noted, however, that the subject was involved in *West v. Hitchcock* (205 U. S., 80). That case involved a question of membership in the Wichita and affiliated bands of Indians, in connection with making allotments, under the act of Congress approved March 2, 1895 (28 Stat., 876, 895-897), which act did not contain any specific direction as to the making of such rolls. The claimant there asserted membership by virtue of adoption. The court said:

"The right is conferred upon members of the bands, but the ascertainment of membership is left wholly at large. No criteria of adoption are stated. The Secretary must have authority to decide on membership in a denial case, and if he has it in any case he has it in all.

After referring to sections 441 and 463 of the Revised Statutes, the court said:

"The power of Congress is not doubted. The Indians have been treated as wards of the Nation. Some such supervision was necessary and has been exercised. In the absence of special provisions, naturally, it would be exercised by the Indian Department."

All declarations that the Secretary of the Interior has authority are coupled with the saving clause that there be no special provision conferring jurisdiction upon some other tribunal.

The contention that the Secretary has now jurisdiction to eliminate names from the list made by the commissioners appointed under the act of 1889, must be upon the assumption that their appointment did not constitute them a special tribunal for making such rolls. It is significant, in this connection, that the rolls were to be made—not only to determine whether the necessary two-thirds of the Indians had given assent to the agreement, but also "for the purpose of making the allotments and estimates hereinafter mentioned." It would be difficult to find language more appropriate to specifically confer jurisdiction.

It is contended, however, that the approval given by the President in 1890 was confined to the written agreements secured by the commission from the Indians. That is true as to form. In fact, however, the census made and transmitted to the Interior Department by the commission, with its report, was accepted as correct by the President to the extent that he determined thereby that two-thirds of the male adults of all the Chippewa Indians in Minnesota had signed the agreement for the cession of the Red Lake Reservation and as to each other of the several reservations two-thirds of the male adults residing and belonging thereon had agreed to the cession.

It has been laid down as a universal principle that the acts of a tribunal given power of jurisdiction over a subject matter are binding and valid as to that matter, and that the decision made or act done is final, unless an appeal is provided for or other revision is prescribed by law. This is stated in *United States v. Arredondo* (6th Pet., 691, 728, 729):

"It is a universal principle that where power or jurisdiction is delegated to any public officer or tribunal over a subject matter, and its exercise is confided to his or their discretion, the acts so done are binding and valid as to the subject matter, and individual rights will not be disturbed collaterally for anything done in the exercise of that discretion within the authority and power conferred. The only questions which can arise between an individual claiming a right under the acts done and the public, or any person denying its validity, are power in the officer and fraud in the party. All other questions are settled by the decision made or the act done by the tribunal or officer, whether executive (1 Cranch, 170, 171), legislative (4 Wheat., 423; 2 Pet., 412; 4 Ibid., 563), judicial (11 Mass., 227; 11 S. & R., 429, adopted in 2 Pet. 167, 168), or special (20 Johns., 739, 740; 2 Dow P. C., 521, etc.), unless an appeal is provided for, or other revision, by some appellate or supervisory tribunal, is prescribed by law."

There is nothing in the act of 1889, nor in any other act of Congress, providing for approval or supervision by the President or other officer or tribunal, or for appeal from the action, the commissioner acting as a special tribunal under section 1 of the said act of 1889.

It is true, as stated in support of the jurisdiction of the Secretary of the Interior, that the work of the commission was not completed at the date Congress enacted the law of June 10, 1896 (29 Stat., 325), but that fact is not of significance, because that did not attempt to confer jurisdiction or authority upon the Secretary of the Interior. There were portions of the work yet to be completed, such as the allotment of lands and removal of Indians from other reservations to White Earth. Neither had the work been completed at the date of the act of June 27, 1902, which directed the Sec-

retary to complete the allotments to the Indians. This act amended several sections of the act of 1889 in respect of making allotments, etc., but did not make any change in section 1, nor confer upon the Secretary of the Interior any authority in respect of the matters provided for in that section, among which was the making of the census. Nor did the act of April 28, 1904 (33 Stat., 539), purport to make any additional provision respecting the census. Neither the fact of the passage of these laws nor any provision contained in any one of them supports the contention of the protestants here. That it was not intended by these laws to affect in any manner the census which had been taken by the commission is further indicated by the provision in respect of this census that it should be made by the commissioners "while engaged in securing such cession and relinquishment as aforesaid before completing the same." In other words, the census was to be made before the commission should report the result of its work to the President.

The various decisions cited in support of the protest have been examined, but it is not necessary to comment upon them extensively. Considerable stress is laid upon the decision of the Circuit Court of Appeals in *Woodbury v. The United States* (170 Fed., 302), and in *Oakes v. The United States* (172 Fed., 305). These cases involved the right of individuals claiming allotments on the White Earth Reservation, but were brought under the act of February 6, 1901 (31 Stat., 760), specifically conferring jurisdiction upon the circuit courts of the United States over suits involving the right of any person of Indian blood claiming to be entitled to an allotment of land under any law of Congress. These decisions are, therefore, not important in arriving at a conclusion as to the jurisdiction of the Secretary of the Interior in the matter now here. The decision by the department in the case of *Minnie H. Sparks* (36 L. D., 234), is also referred to. In that case the name of Minnie H. Sparks was placed upon the rolls by the Chippewa Commission, and she received annuities from the date of enrollment for a period of 10 years, when her name was dropped. By the decision referred to it was held that the dropping of her name because of non-residence was unauthorized. This case, and the other referred to therein and quoted from (*Sloan family*), held that residence was a requisite to sustain the right to an allotment on the White Earth Reservation, but not to sustain a right to annuities.

In the case of *Nellie Lydick* (29 L. D. 408), it was held that the Secretary of the Interior had authority to add to these rolls made under the act of 1889 any name which should be there. This was asserted without discussion of the question, and I am not inclined to accept this decision as controlling the matter now under consideration.

The law in question was under consideration in *Fairbanks v. United States* (223 U. S. 215). It was there held that children born after 1889 to parents whose names were on the roll prepared by the commission were entitled to allotments of land on the White Earth Reservation. A fuller discussion of the matter, however, is found in the case of *Laroque v. United States* decided November 8, 1915. The question there involved was as to the right to have an allotment made in the name of an Indian who was enrolled in 1889, and who died before making application for allotment. It was contended that the census was to be accepted as finally determining who were to receive allotments. In the course of the discussion, the court said:

"While the act directed that a census be made 'for the purpose,' among others 'of making the allotments' contemplated, we think this means nothing more than that the census should serve as a preliminary guide in ascertaining to whom allotments should be made. There was no direction that it be treated as controlling, or that allotments be made to all whose names appear therein or only to them. The work of allotment could not be undertaken at once. The cession was not to be effective until approved by the President. Many of the Indians were to be removed from the ceded reservations to the White Earth Reservation, and much other work was required to prepare the way. So, it must have been contemplated that many changes would occur in the membership of the several bands through deaths and births before the allotments could be made. In *Fairbanks v. United States* (223 U. S., 215), we held that children born into the bands after the census were entitled to allotments, although not listed in it, and we perceive no reason for giving the census any greater effect in this case than was given to it in that. No doubt it is to be accepted as an authorized listing of the members of the several bands who were living when it was made, but it has no bearing in cases like the present."

It is significant that the court noted the fact that the cessions were to be approved by the President, but did not intimate that anything in the act provided for approval of the census to make it authoritative. This decision is authority for the conclusion that the census made by that commission is to be accepted as affording an authoritative list of the names to be considered as members of the several tribes at the time it was made; and entitled to the benefits provided by said act of 1889. The jurisdiction

which the Secretary has in the premises is to determine the persons named in said census who have since died, or otherwise since forfeited their rights, and also the names of those who have since been born.

I am of the opinion that the Secretary of the Interior has no authority to eliminate from the rolls any name placed thereon by the commission for any cause arising before such enrollment, and that the order of November 25, 1911, approved November 27, suspending from participation in any payments, annuities, or other benefits, the parties complained of, was beyond the authority of the Commissioner of Indian Affairs and the Secretary of the Interior.

The rules to show cause are hereby discharged, the orders of suspension are hereby rescinded, and the proceedings against the parties named are hereby dismissed. The Commissioner of Indian Affairs will take such steps as may be proper and appropriate, treating said order and rule to show cause as it never issued.

ANDRIEUS A. JONES,
First Assistant Secretary.

The CHAIRMAN. See if you can finish in 15 minutes.

Mr. CASWELL. That is impossible, to do it; it is a big question.

The CHAIRMAN. What the committee wants to know is your objections to the proposed legislation.

Mr. CASWELL. Yes; because it started with these people, and they are not proposing that legislation for the good of the Indians.

The CHAIRMAN. What Indians?

Mr. CASWELL. The Minnesota Chippewas, is the ones I claim here.

The CHAIRMAN. All of the Minnesota Chippewas, or just the Red Lake Indians?

Mr. CASWELL. All of the Minnesota.

The CHAIRMAN. All right; now you may go ahead.

STATEMENT BY BENJAMIN CASWELL—Resumed.

Mr. CASWELL. Of course, it hits the weakest and benefits the strongest ones.

The CHAIRMAN. Tell us right there where it hits the weakest ones.

Mr. CASWELL. The Indians themselves are not able to compete with the white men; take this man [indicating an Indian in the room] and a lot of men that are not able to speak English and know the laws of the States, and some of them have lost their property through lack of knowledge how to protect themselves. For instance, on account of the tax; some have lost their property through tax sales.

The CHAIRMAN. Now, let me ask you, is there any way of which you know that the Red Lakes could be taken out of this and segregated entirely and make legislation for the balance of them?

Mr. CASWELL. I would rather not speak for the Red Lake Chippewas.

The CHAIRMAN. For whom do you speak?

Mr. CASWELL. I speak for the White Earth in particular; that is where I came from, and that is where the people that control the council come from. Of course, I have set off here the things I want to say.

The CHAIRMAN. Well, you can put it in the record.

Mr. CASWELL. I make reference here to George Fairbanks.

The CHAIRMAN. You can discuss George Fairbanks, if you desire.

Mr. CASWELL. George Fairbanks was identified as a mixed-blood of Lake Superior, and had mixed scrip, and his wife was Margaret Fairbanks—his number was 163-C—and all their children go under their status, and I will read here the view of the Indians at the time this treaty was made.

The CHAIRMAN. Which treaty are you speaking of now?

Mr. CASWELL. Eighteen hundred and fifty-four.

Here is the understanding of the Indians. James Blackbird, a chief of the Lake Superior Indians—here is a part of his testimony. He said in this testimony:

Gilbert represented Government in negotiating treaty of 1854. He gathered Indians into big council and told them that the Great Father wanted to buy remaining tribal lands in possession of Lake Superior Indians. He said Indians will reserve part of land for several reservations where Indians would receive allotments and work upon them as a white man would do, and that all who were 21 years of age or more and heads of families would be entitled to 80 acres of land. Also single persons over 21 years of age. Gilbert also stated that when an Indian woman marries a white man, the white man shall be the head of the family, and the issue of that marriage would be a mixed-blood, and the mixed-blood would be given land outside of the reservation, wherever she or he choose to take it. That the half-breeds should be given a complete outfit for housekeeping, etc., and that those born of the marriage from those people who thus severed their tribal relations by taking land outside the reservation, would never be considered to have any tribal relations with the Indians thereafter. We understand that mixed-bloods who thus received allotments outside of the reservations and all their children have nothing to do with the reservations whatever.

That is the view of the Indians in that treaty; that is the understanding, and that is the families that they control. Clement H. Beaulieu and all those Indians received benefits on the Lake Superior side, and relinquished all the rights in the Minnesota side, he has stated—that came in later.

Mr. KELLY. Now, Mr. Caswell, you are making the point that there are certain names illegally on the roll?

Mr. CASWELL. Yes, sir.

Mr. KELLY. Now, is it a fact that there are court decisions and other things in the records that makes that a closed question?

Mr. CASWELL. I do not so understand it. There was a question taken in the Court of Claims—I will read here somewhere—

Mr. MERITT (interposing). The Court of Claims held, in substance, that the question of striking these names from the roll was not a matter for that court, but was a question for the Interior Department to decide, and I have placed in the record the decision of the department on that subject. The department has decided that these names should not be stricken from the rolls.

The CHAIRMAN. Mr. Caswell, of course, has his time to use in his own way, and he can put in whatever he pleases.

Mr. CASWELL. In submitting that question to the courts we understand this to be the case: The Secretary of the Interior transmitted the matter and resubmitted it under date of June 16, in order that this court might make findings and draw conclusions of law for its guidance and action. We know that this matter was submitted to the Court of Claims, but as we understand it, it was not judicially disposed of; that is, it was not a decision of the court as other decisions are made by courts.

Now, in the treaty of 1867, keeping that in view, that these people, which was provided in Article IV, one of these old chiefs handed me this paper, and protested against these people, and he went over and asked for it, and he was wondering why these people still remained on the rolls, and that is the print that was given him; that is the law, as I have given it, to Chief Bowen Watts, as regards the mixed-bloods who lived off the reservation, Article IV, treaty of 1867, that no member of any units provided for in this or any former treaty of the

Chippewas of Minnesota shall be paid, under half or mixed blood, except those who live with their people upon one of the reservations; Now, other people means here, as the Indians understood it, that is, the Mississippi Chippewas, and other people of the Mississippi, not the Chippewas of the tribe of any other State, because there were a lot of other Indians in Wisconsin and North Dakota and some in Minnesota; that is the one that these people intended to go on the White Earth Reservation, that belongs to the Mississippi tribe, as designated in the treaty of 1854; and in the treaty of 1889, we come as one band again——

The CHAIRMAN (interposing). That is, all the Chippewas one band?

Mr. CASWELL. All the Chippewas. Mr. Ballinger has read the act. And then there is always a turning point on which we center the whole thing, and in the first part of the act, in section 1, it represents that the commission was to go and treat with the Indians about the title and interest in these several reservations in the State of Minnesota. We contend that these people did not have any rights to sign this treaty, because they had no title; they had relinquished it already; and they did not have any interest; they did not have anything to relinquish. They were on the rolls, but that is not our fault; we protested against these people, but they got on the rolls somewhere, and it is not our will as a tribe. Some chief may have added a few names while he was under the influence of fire water. We are not responsible for this.

Now, this is our contention why we do not have a peaceful time. Now, there are about 2,000 of such people, and as you remember there were 417 selected, this council, which governs the whole State of Minnesota, control the Chippewa matters, and I will come to that, how that happened.

The CHAIRMAN. You want to get to it pretty promptly now.

Mr. CASWELL. All right; thank you. The other mixed bloods that belonged to our tribe never did take great interest in the councils, but they know that the Indians are liberal and kindly. They always give them what comes to them because they regard the mixed bloods as their own children. They always provide for them as they provide for themselves. The election on which this general council was recognized took place at Twin Lakes. The designated place was not there. It was provided that there should be a Government official. It was not really an Indian council as provided by the constitution of the general council, and they brought in some officers in there to make the agent's ruling or the superintendent's ruling effective, and then when we voted—he appointed me to collect, so I could not marshal my forces or help to marshal them.

The CHAIRMAN. Let us see about that. You were advised there was to be an election?

Mr. CASWELL. Yes, sir.

The CHAIRMAN. How long before the election?

Mr. CASWELL. I could not say; about a couple of weeks.

The CHAIRMAN. And that was not time enough for you to marshal your forces?

Mr. CASWELL. Not to marshal my forces, but I was about 110 miles away from the reservation; I couldn't do it. I simply went there the day before the election took place. We were scattered. And then the Indians, the full-blood faction, are not rich people.

The other side, the other people, had amassed wealth, and can afford to have automobiles to carry their people. I counted about 80 different automobiles there that brought their people for them.

The CHAIRMAN. You did finally get to an election?

Mr. CASWELL. Yes, sir.

The CHAIRMAN. And you voted on the question?

Mr. CASWELL. We voted on the question.

The CHAIRMAN. What was the vote?

Mr. CASWELL. If I remember right there was 417 in their favor and ours about 256.

Mr. KELLY. Every Indian had the same notice, didn't he?

Mr. CASWELL. Not every Indian, because every Indian can not read.

Mr. KELLY. But the word was conveyed to every Indian, full blood and mixed blood alike, that there was to be an election on a certain date?

Mr. CASWELL. I couldn't say.

The CHAIRMAN. Notices were sent out and posted in the regular way?

Mr. CASWELL. There was a notice sent to me, and if a notice was posted on a wall, a hundred Indians may pass and not notice it.

Mr. RHODES. Do you mean to say, Mr. Caswell, on account of the full bloods living so far away and being poor people and scattered they were not able to attend this meeting?

Mr. CASWELL. Yes, sir.

Mr. RHODES. Mr. Chairman, inasmuch as this gentleman seems to be a well-meaning man and is hurried a little more than he ought to be, and his time is about up, I suggest that he be given an opportunity to file a statement; in other words, complete a statement of what he would like to say this morning and let it be printed in the record in connection with what he said at this time.

The CHAIRMAN. He has a couple minutes left yet.

Mr. CASWELL. If that is the case, I would be willing to do that.

The CHAIRMAN. How soon would you be ready to file a statement?

Mr. CASWELL. Why, I have a great deal to say.

The CHAIRMAN. I understand, but we don't want to give permission to print a book on the subject. It ought to be condensed to some extent.

Mr. CASWELL. Yes; I would.

Mr. HERNANDEZ. It seems to me Mr. Caswell should not go back over 1889 anyway.

The CHAIRMAN. No.

Mr. CASWELL. I want to show the methods of the election. We never could get justice from these people the way they run the council. Now, these 417, we, of course, protested the way they elected these people. They elected them at wholesale. I will describe, as I was one of the committee appointed. Somebody made a motion that the Chair appoint a committee to select the delegates. The Chair has already been instructed who to select, and the motion was carried, and they hurried through. Some of those Indians did not know what was going on. They are like some of these fellows here [indicating]. They do not understand English, and it is passed and the Chair gets up and appoints certain people. Now, it looks pretty

fair. We say we appoint six committeemen, three will be full bloods, and three will be mixed bloods.

That looks very fair and all that, but the Chair appoints a full blood as chairman, and the vote stands 3 to 2. The chairman did not usually vote except on a tie vote, at least on the committee that I belonged to, and then when we got to the committee room—of course, I intended to be on the full bloods, so the representation would be equal—and the printed list was already given us of the 62 delegates to be named, and there were 57 already selected on a type-written paper presented to us. We objected to it, and, of course, we were outvoted 3 to 2. And of the six or seven remaining we selected three, and those delegates control the whole State.

Mr. KELLY. Let me stop to say this: The conflict between you and the testimony we heard the other day is this: You claim the full bloods did not get a fair chance at that election, and yet it was testified the other day that the superintendent said that he made an effort, issued rations, and had dances and powwows, and everything was done to get them there. Is that true or not?

Mr. CASWELL. I think they had powwows, but none before the election.

The CHAIRMAN. Now, Mr. Caswell, your time has expired, and I would like to suggest to Mr. Rhodes that in connection with his offer to have a statement filed in the record that previous to the filing of that statement that he submit it and let us see whether it is too voluminous to put in. It is perfectly agreeable to me to have him file a statement, but I think that it ought to be submitted before we put it in.

Mr. RHODES. I do not know that he wants to file any, but I thought it was apparent that he would not get through.

The CHAIRMAN. Would you like to file a statement?

Mr. CASWELL. Certainly I do, because I am not half through.

The CHAIRMAN. I suggest that he get his statement ready to file and submit it to the committee, and we will examine it, and if there is not anything in it that is not entirely foreign or immaterial we will print it. Make it as brief and concise as possible.

(Mr. Caswell's written statement follows:)

Mr. Chairman, Committee on Indian Affairs of the House, and members of the committee, you have granted me permission to make a written statement in addition to my verbal statements, for which I thank you most profoundly for whom I speak—the real Minnesota Chippewas.

Four hundred and seventeen votes on the White Earth Reservation alone could not reasonably be expected to dominate about 12,000 people, if majority rules. The demand of the Indians of White Earth Reservation was to be granted by the Beaulieu-Fairbanks faction a partial representation in their demand of one-half of the 66 delegates to the last council held at Cass Lake, Minn., July 8, 1919. This demand was made to test the Beaulieu-Fairbanks faction that if they really mean to be just to the tribe they will grant the request, as this would have proven to the real Indians that the Beaulieu-Fairbanks faction incline to be fair. They flatly refused and resorted to their old machine methods of selecting the 66 delegates who do control the general council of the Chippewa Indians. The methods used are substantially as follows:

"Mr. Chairman, I move that a committee be appointed by the chair to select the delegates who will attend the general council."

"Mr. Chairman, I second the motion."

The chairman then appoints the committee, the majority being the men of their choice, if equal in number of each faction, the chairman who has no vote, is that of the full-blood faction. When this committee brings in its report, it is then moved to approve the selection of the committee (after reading the names hurriedly), seconded,

and passed. The selection of the committee is such that the delegation from White Earth Reservation has not its own mind and this delegation controls the Minnesota Chippewa matters. This is about the method that was used in 1918 and 1919 councils. The council of 1918 was not approved by the Indian Bureau, but 1919 was, because the Indian Bureau had committed to approve beforehand if certain conditions were complied with. The Indian Bureau was honest in its efforts to have a representative council, but it is exceedingly unfortunate that it misplaced its confidence in a party who was supposed to see fair play prevail. The gentleman himself spoke to me after the White Earth delegations had been selected, in which he stated: "What happened at this White Earth election? It will be up to the general council to decide which delegation to seat." At the time he spoke to me herein just quoted, he had not then been designated to see fair play prevail at Cass Lake. But just listen how different this talk when he came to Cass Lake with delegated powers from the Indian office. His whole attitude was to seat the White Earth contested "Lake Superior Chippewa delegation." He told the council that if, we did not like his way—he told us to get out of the council room (Cass Lake armory), and pointing, he said, "There is the door." A great many delegates from other reservations (ceded) did not understand the English language, but Mr. James I. Coffey interpreted the ultimatum. The following Indians got up in a body: Cass Lake delegation, Leech Lake delegation, White Oak Point delegation, Nett Lake delegation (except Mr. Pequette), Winnibigoshish delegation, Mille Lacs delegation, White Earth (contesting) delegation; leaving in the hall remaining (including spectators), Fond du Lac delegation, Grand Marais delegation, White Earth (contested) delegation.

It will be observed in the above list which delegation from White Earth Reservation would have been seated. The Beaulieu-Fairbanks faction, we believe, knew this; hence the arbitrary action of the Indian Bureau representation. After we left the council room Mr. Morrison conducted duties of a presiding officer.

I wish to say as to the bill, House of Representatives redraft, that on page 4, line 6 to line 13, inclusive, provides a safeguard, but this can be annulled on the proviso of page 7, line 1 to 17, inclusive.

The ignoring of all other treaties and acts of Congress in the provision of the bill, page 7, line 24 to page 8, line 3, is absolutely objected to.

Section 2 objectionable. It contemplates to destroy the playground of the United States. The Indians pay for the forests and land is provided in the act of May 23, 1908.

There should be no legislation at this session for the reason that there are too many controverted questions contained in the proposed bill.

As we understand, when the duration of the Nelson Act, January 14, 1889 (25 Stats., 642), it runs 50 years—1889 to 1939. The final act will be the distribution of funds "to then living members" to share alike. What the ministerial branch of the Government does not change the time. What the Indian is made to understand in treaties or agreements with the Government governs.

Yours, very respectfully,

BENJAMIN CASWELL.

400 NEW JERSEY AVENUE NW., WASHINGTON, D. C.,

March 16, 1920.

(Mr. Caswell not having furnished the list of names alleged to be illegally on the Chippewa roll, it is, therefore, omitted.)

Mr. BALLINGER. Let me make a statement in that connection: Will Mr. Caswell serve a copy of that on me so that we can examine it?

The CHAIRMAN. That is up to Mr. Caswell. I don't think this committee can direct Mr. Caswell to do anything but bring his statement. You go ahead and do the best you can with that. Who is the next witness?

Mr. MERITT. Mr. Walters, of the White Earth Reservation.

STATEMENT OF GEORGE WALTERS, WHITE EARTH, MINN.

(The statement of Mr. Walters was given through William Lufkins, interpreter.)

The CHAIRMAN. Ask him to proceed in his own way for 15 minutes, and tell us why he favors or opposes the proposed legislation.

Mr. WALTERS. Gentlemen, I thank you for allowing me to speak before this body as others have spoken here. I object at this time.

My objection is this, that they are going to take away this pine forest in this legislation; and I object to these men who are about to take allotments on these pine lands, and there is no more pine in the State of Minnesota—just a few left standing of pines, and I would rather see a perpetual forest made of that pine that is left in that forest. We will use them some day. It will become more valuable, and at this time you could not get as much value out of it now as you would afterwards. That is one of them.

And there is this money which we have in the general fund. We do not want that segregated at this time. Our chief signed a treaty and made this agreement, that for 50 years it was for their posterity, and at that time then it would be distributed. And we did not instruct this man [he points these out] and that man [indicating] he never seen before. Opposing this legislation he never instructed him to do that. These men who are trying to run our affairs all look just like that man [indicating] and that one there [indicating]; they want to be the boss of all our property. And we are the heirs; we are the real property owners, the real Indians. We have that right and equity in the possessions of those of our forefathers. In the past we have used them only as interpreters in our business affairs. We never proposed this legislation, and should we propose any legislation we will come here to propose it. These are merchants. These men here [he means these] are merchants, and they want this money distributed where they can get it; and if we distribute all this money we will not do right by our children. They will not have enough to be taken care of.

And I wish to say a few words regarding the General Council. These are the same men, these Frenchmen, are the ones that put that General Council up there, and are trying to take it away, even if you make any arguments or challenge their statement in the council they start proceedings against us. There was one man here, while I said something about the General Council, he said that he would have me arrested if I persisted in my talk. That is how they want to run us. That is the way they do things. This is our council, and this is ours by right, and they have no right to dictate to us. That is one of them.

One more. I want to speak about the schools. I want to state that this closing of the schools—these mixed-bloods closing the schools, I do not know if the Indian Office Commissioner has recommended it, but we dislike that move very much. At this time the school is different from what it was. I see myself—that is, I go and see. The buildings are getting bad and dilapidated. Some children do not have their noonday meal, and some of the children are not well clad, and Minnesota is a very cold State. And while the Government was running the schools and it was under the supervision of the Government, the schools were well organized; that is, they were in better condition, the children were.

Gentlemen, if we were using any of your money, and if we are wasting it, do not let us have it. Let us use our own money in educating our children. We like to see our children go to school. We believe that you white people—that it is your wish for us Indians to become educated. Of course, we did not set aside, but we would rather do it; we are reaching with both arms to have our children educated, and when we use that money in that manner, we think that the money is well spent.

The first appropriation for the General Council was \$6,000, and that was not enough and they asked for an additional appropriation of \$10,000. We would like to know when they are going to have sufficient money to run this General Council. Is that \$10,000 insufficient? That is all I want to say at this time, and I thank you very much.

Mr. KELLY. Ask him whether he represents the full-bloods on the reservation.

Mr. WALTERS. Yes, sir.

Mr. KELLY. Is he a full-blood himself?

Mr. WALTERS. Yes, sir; I don't know what that is, but I am an Indian.

Mr. KELLY. He means a full-blood Indian?

Mr. WALTERS. I don't feel that way; I do not feel the full-blood.

Mr. KELLY. Well, he means there is white blood in him; is that the dea?

Mr. WALTERS. He could not say that; he could not state that.

Mr. KELLY. Well, now, he made a very strenuous objection to the allotment of these pine lands. Of course, he has never had any allotments himself; ask him if he has had any allotments?

Mr. WALTERS. Yes, sir.

Mr. KELLY. Oh, he has had an allotment of his own.

Mr. WALTERS. Yes, sir.

Mr. KELLY. Now, he objects to allotments; was there any pine land in your allotment?

Mr. WALTERS. He took 80 acres on the prairie, and he went to the agency office and placed on the map, on the place there where he was to take an allotment; it happened to be pine land.

Mr. KELLY. Then he has 80 acres of pine land; that was his allotment?

Mr. WALTERS. Yes; it happened to be pine land; that is how I got my 80 acres of pine land.

Mr. KELLY. Of course, he has that 80 acres of pine land at the present time, has he?

Mr. WALTERS. I have the land, but I have not got the pine; I disposed of my pine.

Mr. KELLY. Does that mean that he has sold the pine land allotment?

Mr. WALTERS. All the pine off the allotment.

Mr. KELLY. How much did he receive for the pine when he sold it?

Mr. WALTERS. \$14,000.

Mr. KELLY. Then the chief wants us to understand that he is opposed to anybody else having pine land allotment except himself; that he may have it and get his \$14,000 for it, but he objects to anybody else having the same right?

Mr. WALTERS. I do not object; that is, to somebody getting it, but the Indians do not want it that way.

Mr. KELLY. He has had the advantage himself; he must have wanted it himself, but he speaks for others instead of himself on that ground?

Mr. WALTERS. Everybody took allotments; that is, on the White Earth—most everybody has been allotted on the White Earth. Who is the one that is going to be allotted on these pine lands here?

Mr. KELLY. Well, the chief objects to anybody else being allotted, but he had it himself.

Mr. ELSTON. When he speaks of pine lands does he mean on the Red Lake, or White Earth?

Mr. WALTERS. I am talking about the Cass Lake, at Pine Forest.

The CHAIRMAN. Now, as I understand the chief, he is absolutely opposed to any legislation of any kind at this time with regard to closing up the Chippewa affairs?

Mr. WALTERS. Yes; the Indians that I represent do not want legislation at this time, and I oppose it.

The CHAIRMAN. Does that mean that he is satisfied with the way that the Indian Bureau is handling the affairs of the Chippewa Indians?

Mr. WALTERS. Yes; we have great confidence in the Government.

The CHAIRMAN. And how many Indians does he claim to represent?

Mr. WALTERS. Almost all the full bloods—real Indians—just a few—

The CHAIRMAN (interposing). How many full-bloods does he claim there are in the Chippewa Nation?

Mr. WALTERS. Well, figuring on the dot, I would say it would be about one-third.

Mr. RHODES. Mr. Kelly seemed to raise the question that the chief had received an allotment and objected to other people receiving allotments. Now, the chief does not mean that he is the only member of this tribe who has received an allotment; now, isn't it a fact that every member of his band also received an allotment?

The CHAIRMAN. On the White Earth Reservation?

Mr. WALTERS. Under a treaty I got 80 acres; I had the preference of staying there and taking the 80.

Mr. RHODES. Is this land subject to taxation?

Mr. WALTERS. No.

Mr. RANDALL. Is it not a fact that you are enrolled as a mixed-blood?

Mr. WALTERS. I could not state that.

Mr. RANDALL. And by virtue of the fact that you were enrolled as a mixed-blood, is the only reason that you could sell the pine land and get this allotment?

Mr. WALTERS. Well, almost every Indian has been—that is, is made a mixed-blood by the work of these men.

Mr. RANDALL. Does he claim that in fact he is not a mixed-blood, but is a full-blood Indian?

Mr. WALTERS. Yes; and I finally told them I was a mixed-blood, and I guess I was about the last one that finally got the purchase of pine; I told them I could not sell it and was not a mixed-blood.

Mr. RANDALL. But you did sell it by virtue of the fact that you were enrolled as a mixed blood?

Mr. WALTERS. I do not know about the rolls—being enrolled as a mixed blood, but myself, it was the lumber man that finally bought this pine from me.

Mr. RANDALL. Did you, yourself, attend the Government school?

Mr. WALTERS. A very short time.

Mr. RANDALL. About how long?

Mr. WALTERS. About three years.

Mr. RANDALL. Did you finish the course provided in the Government Indian School?

Mr. WALTERS. No, sir; I just about learned my A B C's, and that next book.

Mr. HERNANDEZ. Chief, you certainly do not object, since the White Earth Indians, and all other Indians in the other agencies have received their 160 acres of land—you certainly do not object to the Red Lakes receiving 160 acres of land in severalty, do you?

Mr. WALTERS. I have nothing to say about the Red Lake Indians; that is their property.

Mr. HERNANDEZ. That is, he has no claim whatever—he, or his band, have no claim whatever on the Red Lake Reservation?

Mr. WALTERS. It is my impression that it is their land, and I can not say—I would not dictate how they should dispose of their land.

Mr. ELSTON. Ask him if he attended the general council meeting, at which the present general council was elected, and what objection he has to the present general council as now constituted?

Mr. WALTERS. The local or the general council?

Mr. ELSTON. The general council.

Mr. WALTERS. Yes.

Mr. ELSTON. Well, he objects to it—oh, he attended it?

Mr. WALTERS. He attended it.

Mr. ELSTON. Ask him if he voted, and if he thought it was conducted fairly?

Mr. WALTERS. Yes. The Indians had met there, and held their general council fairly.

The CHAIRMAN. They met, and had a fair election; ask him if he considered that the election was conducted in a fair way?

Mr. WALTERS. I do not know what they done, but the agent that presided there sent us out; I don't know what they done.

The CHAIRMAN. Now, what does he mean by saying that the agent sent them out?

Mr. WALTERS. When our delegates got there the agent told them, after a little while, he told them that there was a door there that they could go out. "You fellows persist in talking—keep talking." He says, "There is a policeman here will take you out."

The CHAIRMAN. Well, was that after they had voted, or before?

Mr. WALTERS. When they were going to start the general council.

The CHAIRMAN. Then the reason that the chairman of the meeting directed them toward the door was that they were a disturbing element; is that the idea?

Mr. WALTERS. I suppose that was it.

The CHAIRMAN. Now, was the reason that they did this because they had not been elected as delegates to that meeting?

Mr. WALTERS. I don't know, but they sent us out.

The CHAIRMAN. Well, he knows whether he and those accompanying him were regularly elected delegates to that meeting by the local council?

Mr. WALTERS. I suppose that is why they sent us out.

The CHAIRMAN. Because they were not regularly elected delegates?

Mr. WALTERS. Yes, sir.

The CHAIRMAN. Has he, himself, the chief, been elected a delegate to that council?

Mr. WALTERS. Yes; they sent for me there and of course, I do not know where this request came from, but I was requested to be at the Cass Lake.

The CHAIRMAN. He does not know whether he was elected to go to that council or not?

Mr. WALTERS. No; I would not have them appoint me [indicating certain men in the room] as a delegate to any place. The Indians elected.

The CHAIRMAN. I think that we have gone far enough with that. I guess we can see about what the situation was. I would just like to say to the chief, in closing, that if he is not a full-blood Indian, then Mr. Remington, the celebrated painter of Indians, has been illustrating for us people who are not full bloods.

Mr. WALTERS. Just one more thing.

The CHAIRMAN. I am trying to compliment the chief that he is, according to Mr. Remington, the illustrious portrayer of Indian characters, that he is a true type of a full blood Indian, as portrayed by him.

Mr. WALTERS. Will you allow me to speak a few more words?

The CHAIRMAN. Yes.

Mr. WALTERS. I made a proposition that these men here allow me to have half of the delegates and half for them—a compromise; three times I have asked them that, and they have always answered me, “No; why do you ask us, you are going to help the Commissioner of Indian Affairs.” That is all.

The CHAIRMAN. Who is next?

Mr. MERITT. Wah Bee Zha Shee, Leech Lake Reservation, Minn.

STATEMENT OF WAH BEE ZHA SHEE, LEECH LAKE RESERVATION, MINN.

(The statement of the witness was given through William Lufkins, interpreter.)

The CHAIRMAN. Now, Mr. Lufkins, will you qualify the gentleman and tell us who he is, and where he lives?

Mr. LUFKINS. His name is Wah Bee Zha Shee, Leech Lake Reservation, Minn.

The CHAIRMAN. Can you talk English at all?

Mr. WAH BEE ZHA SHEE. Not at all.

The CHAIRMAN. How many Indians does he claim to represent?

Mr. WAH BEE ZHA SHEE. Mostly all of them except a few.

The CHAIRMAN. Well, is he a regularly elected delegate from any local council?

Mr. WAH BEE ZHA SHEE. Yes, sir.

The CHAIRMAN. Well, name the council, please.

Mr. WAH BEE ZHA SHEE. Cass Lake.

The CHAIRMAN. He represents the Cass Lake full-blood Indians?

Mr. WAH BEE ZHA SHEE. That is where they met.

The CHAIRMAN. And he represents the Cass Lake Indians?

Mr. WAH BEE ZHA SHEE. I represent the Leech Lake Indians.

The CHAIRMAN. Now, let him tell us in his own way, if he can, why he opposes or favors this proposed legislation?

Mr. WAH BEE ZHA SHEE. I am glad that I have the chance to state what I have been instructed to state before this committee.

What I am going to state is the opinions of the Leech Lake Indians. I am going to say nothing but the true facts, and the truth as to what these Indians sent me here for. We are apprehensive about some of this legislation—of Indians at Leech Lake. Most of the Indians, a great majority of the Leech Lake Indians, would not understand this proposed legislation; that is, to read it, and that is the element that I represent. But we have been informed by those who can read that this proposed legislation is going to hurt the Leech Lake Indians; that this legislation is a proposition that has been initiated by a few doubtful members of the mixed-blood element.

Generally the proposed legislation is passed, and then after it is passed we know something about after it comes up, and then we are surprised that such legislation has passed.

Mr. RHODES. Chief, how will this legislation hurt the Leech Lake Indians?

Mr. WAH BEE ZHA SHEE. Because this legislation has been started and proposed by some questionable members—that is, who continually seek to grab the property of the other Indians and us Indians there.

The CHAIRMAN. Tell him now to go ahead with his statement.

Mr. WAH BEE ZHA SHEE. And this property, this is our property, and we have not held a council as to the best way to dispose of this property. Somebody else has initiated the idea of how they are going to dispose of us at Leech Lake. At this time we oppose this legislation and we wish to ask that we sit—when I get back—to think this over as to the best legislation for the Leech Lake Indians. We ask this—that is, the Leech Lake Indians have asked this—because we are fearful that somebody, as in the past, is seeking to fill his pockets at the expense of the band of Indians; and I think that this committee is fair; that is, it appears as if they are interested, and I have great confidence, and I ask them to help us.

The CHAIRMAN. Now, you can say to the chief that he will have ample time to study the report that will come from this hearing before any legislation will take place, and I would be glad to hear from him and his council as to their opinion as to the legislation, in the form of a resolution or something of that sort, later on.

Mr. WAH BEE ZHA SHEE. Yes, sir.

The CHAIRMAN. And we thank him for his information. Has he anything further to say?

Mr. WAH BEE ZHA SHEE. No, sir; that is all.

The CHAIRMAN. Now, there are two members of the Red Lake Band?

Mr. MERITT. Mr. Broker, of the White Earth Reservation, wishes to be heard next.

Mr. LUFKINS. He wants to say just a word more.

The CHAIRMAN. Very well; let him proceed.

Mr. WAH BEE ZHA SHEE. The first we heard of this legislation last fall we heard that Ed Rogers was coming to Washington, and after that we heard that somebody has introduced legislation, and the Leech Lake Indians didn't know anything about the proposed legislation until it was introduced. The Leech Lake Indians never had a meeting with Ed Rogers or never employed him to introduce legislation for the Leech Lake Indians.

The CHAIRMAN. All right; if that is all, Mr. Broker, we will hear you.

STATEMENT OF MR. J. W. BROKER, PONSFORD, WHITE EARTH RESERVATION, MINN.

The CHAIRMAN. Give us your name in full and tell who you represent.

Mr. BROKER. J. W. Broker, Ponsford, White Earth Reservation, Minn.

The CHAIRMAN. What blood Indian are you?

Mr. BROKER. Full blood.

The CHAIRMAN. What is your position in the affairs of the Indians?

Mr. BROKER. As I stand here?

The CHAIRMAN. No; who are you a representative of; any particular band?

Mr. BROKER. The Otter Tail Pillager Band.

The CHAIRMAN. Are you a representative or were you selected by that band?

Mr. BROKER. Yes; by the council that was held at Cass Lake. This council was under the auspices of Congressman Carss, and he suggested a representative body of the Indians there, and they should select a delegation, and he would see that they would be heard, and I was selected at that meeting.

The CHAIRMAN. Well, sir, in behalf of Mr. Carss, you are now being heard.

Mr. BROKER. Yes; I suppose.

Mr. KELLY. Just before you begin; were you elected a delegate to the general council at Cass Lake?

Mr. BROKER. Well, there were two contending factions of the White Earth Reservation. I don't believe anybody has touched upon that particular point. If you will permit, I want to explain that. Now, the constitution or the by-laws designate White Earth as the meeting place for the local council, but through some arrangement here with the Indian Department that it was to be held at Pinehurst, and I believe Mr. Dickens, agent at that time, was the man designated to see that that thing was properly done; but there was some dissatisfaction there some way between the mixed bloods and the full bloods, and there was two sets of delegates elected, one by the full bloods and one by the mixed bloods.

Mr. KELLY. Who had the majority there, Mr. Broker?

Mr. BROKER. Well, on the first ballot that was taken of course the mixed bloods were in the majority. I think they had something like 417 votes.

Mr. KELLY. And the full bloods had how many?

Mr. BROKER. Two hundred and fifty-some odd. But the Indians contended at that time that there was a lot of those fellows that voted in there had no right to vote; that was the bone of contention for the last 25 or 30 years, that they never did have a right to vote; but they are still on the rolls. Finally, on July 8—

Mr. ELSTON (interposing). What year?

Mr. BROKER. 1919. On July 8, 1919, these two sets of delegates proceeded to Cass Lake, and there a big bolt took place, and these contending factions wanted to be seated—each one wanted to be seated, and Mr. Dickens refused to consider anything but to see the credentials, and he saw Mr. Coffee, and there the bolt took place.

Mr. KELLY. Mr. Dickens acted only by what the credentials showed?

Mr. BROKER. Yes; but when the Leech Lake delegation went out the Cass Lake delegation went out.

The CHAIRMAN. But Mr. Dickens was the proper authority to determine who were the legally elected delegates; he was the legal authority to determine who were the legally elected delegates to that council?

Mr. BROKER. I don't understand it that way. I suppose his instructions were to see that it was done right.

The CHAIRMAN. Some one had to determine who were the delegates to that council?

Mr. BROKER. The people themselves, as I understand it.

The CHAIRMAN. Wasn't that election carried on the same as all other elections were carried on theretofore?

Mr. BROKER. Here is my understanding at that time——

The CHAIRMAN (interposing). You had attended other elections——other councils?

Mr. BROKER. Yes, sir.

The CHAIRMAN. Wasn't it carried on exactly the same as they had been carried on theretofore?

Mr. BROKER. Well, they carry on elections there in different ways.

The CHAIRMAN. Well, I am asking you the question; if this was different from any others, you can say so.

Mr. BROKER. There was no vote taken on this Cass Lake Council whatever, but the bolt came before the delegates were seated.

Mr. KELLY. But you are forgetting the local council; that is where the delegates were elected.

Mr. BROKER. Yes; on the White Earth Reservation. But there was no contention on the rest of the delegates.

The CHAIRMAN. The contention was on the White Earth delegation?

Mr. BROKER. Yes, sir.

The CHAIRMAN. And they were directed not to participate?

Mr. BROKER. Yes, sir.

The CHAIRMAN. What was the reason given for that?

Mr. BROKER. The proposition put up to the council at that time was that those two contending delegations should be set aside and the remainder of the delegations vote on who would be seated of the contending delegations, but that proposition was turned down, and Mr. Dickens proceeded to determine on his own account.

The CHAIRMAN. I think we can understand what you mean. There were contesting delegations from the White Earth council?

Mr. BROKER. Yes, sir.

The CHAIRMAN. And it was proposed that the other delegations should determine who should be seated?

Mr. BROKER. Yes, sir.

The CHAIRMAN. And then Mr. Dickens decided that it should not be so done?

Mr. BROKER. Yes, sir.

The CHAIRMAN. And he decided that neither should be seated?

Mr. BROKER. No; he seated the majority.

The CHAIRMAN. Then, he seated one of the sets of delegates that came there?

Mr. BROKER. Yes, sir.

The CHAIRMAN. Now, did he seat the set of delegates that came there with a majority vote?

Mr. BROKER. I think so; yes, sir.

The CHAIRMAN. What contest could there be over that; wasn't that fair?

Mr. BROKER. The contention was that the local council—instead of an election there, it was a selection.

The CHAIRMAN. Well, that is a distinction without much difference. Anyhow, the election was held and the majority of those who were selected—that is, the majority of those that were there selected—that is the council that is now recognized; that is correct, isn't it?

Mr. BROKER. There was a bolt there also.

The CHAIRMAN. Now, what are you here to tell us; anything more than that?

Mr. BROKER. I want to simply now state my objections to the bill.

The CHAIRMAN. That is what we would be very glad to have you do.

Mr. BROKER. This committee print is about the same as the last——

The CHAIRMAN (interposing). The committee print is the thing that you want to consider.

Mr. BROKER. All right. Now, my objection to the bill——

The CHAIRMAN (interposing). That is, your first objection?

Mr. BROKER. Yes. Section 1 is the reenrollment act. Now, on page 8, that the people have no referendum whatever, and no appeal provided in case a commission should misappropriate their authority as to determining who should have a right; no appeal taken therefrom.

The CHAIRMAN. I will suggest to Mr. Broker that if he desires to do so, he can submit a brief or a statement with regard to your objections to the bill, and whether or not you could offer some suggestions that might assist the committee in creating legislation that would be satisfactory to your people, and if you desire to do that you need not be heard any further. If you have got any definite statement that you want to make to us, go ahead and do it; you can have 5 or 10 minutes. We would be glad to give it to you, but not to discuss your objections to the bill; we much prefer to have you put that in the record.

Mr. BROKER. I desire to say that the bill itself—the administrative part of the bill—I object to entirely; it has no place alongside of the jurisdictional act. I believe what is absolutely necessary for the Indians to have is purely a jurisdictional act.

The CHAIRMAN. Are you a lawyer?

Mr. BROKER. No, sir.

The CHAIRMAN. What is your business?

Mr. BROKER. Farmer; everything that I can make pay.

The CHAIRMAN. Do you operate a farm?

Mr. BROKER. Yes, sir.

The CHAIRMAN. What is the size of your farm?

Mr. BROKER. Well, different sizes.

The CHAIRMAN. Do you have more than one farm?

Mr. BROKER. I farm as much as 700 acres at one time; I have in my life.

The CHAIRMAN. What do you raise on your farms?

Mr. BROKER. Wheat.

The CHAIRMAN. Mostly wheat?

Mr. BROKER. Wheat and small grains.

The CHAIRMAN. Have you anything further to say to us in regard to the matter?

Mr. BROKER. No. Of course, I want to have a chance to state my objections to the bill.

The CHAIRMAN. The committee has given you a right to state your objections in writing, and if you want to say anything further verbally we will listen to that.

Mr. BROKER. There is one particular thing—the enrollment—adding to the roll; I don't believe there is anyone to add to the roll.

The CHAIRMAN. You rather think there are too many on the roll already?

Mr. BROKER. Yes; too many on the roll that ought not to be on the roll.

The CHAIRMAN. Well, that is a matter that we can not settle right here now.

Mr. BROKER. And, of course, the desire of the Indians is to have the opportunity to take this matter to a court and have the equity established, just the same as in a probate case.

The CHAIRMAN. That is just exactly what this bill designs to do, as I understand it.

Mr. BROKER. Then the Indians also want to have that opportunity. They never were satisfied with the ruling of the department, although the department did not rule on it.

The CHAIRMAN. You do not agree on that. You say the Indians are not satisfied, and yet we have just listened to two Indians who say they are fully satisfied with the way the department is handling the matter, and they seem to be full Indians; at least, claim to be full-blood Indians.

Mr. BROKER. Perhaps they are satisfied with the administration part of it, but I do not believe they are satisfied that this ruling by the department—with this ruling of the department; and that has been the conflict, and that has been the bone of contention all along.

The CHAIRMAN. You are speaking of the ruling put into the record?

Mr. BROKER. Yes, sir.

Mr. RHODES. You stated your occupation?

Mr. BROKER. Yes, sir.

Mr. RHODES. And Chief Walters referred to the occupation of another gentleman present; what is his business?

Mr. BROKER. Mr. Walters?

Mr. RHODES. Yes.

Mr. BROKER. I don't know; I suppose he lives on his allotment; whether he is farming or not I could not say.

Mr. RHODES. He seems to be a very energetic citizen, too much so to be without an occupation.

Mr. BROKER. He is a kind of a leader amongst his men, sir.

(Mr. Broker's written statement follows:)

WASHINGTON, D. C., March 16, 1920.

Hon. HOMER P. SNYDER,

Chairman House Committee on Indian Affairs:

In compliance to your committee request that I make a statement in writing I will confine my statement entirely to the bill now pending. In the first place, the Indians that I represent object to anyone being added to the rolls of the Chippewa Indians for the reason that as many as 200 or more of the descendants of the so-called Lake Superior scrippers have repeatedly endeavored to get on the rolls of the Chippewa Indians,

and another thing as the bill provides in section 1 that the action of the commission therein provided is final and conclusive, no appeal is provided in case the commission should misappropriate their authority as to their decision in any case. I desire to say the terms provided in the bill for sale of surplus land are not good terms. Section 3 of H. R. 12973 provides for the conveyance of school land to the State. I desire to say while the system may be well applied to part of the White Earth Reservation it will not be practical as applied to the other reservations, as the Indians people generally know nothing about township government. It would be well for the officials in authority, jointly with the State officials, to make a thorough investigation of the matter before abolishing the Indian schools. Section 4 provides for the establishment of town sites. Town sites are not desired anywhere only on the Red Lake Reservation; therefore the General Council of the Red Lake Band of Indians should be consulted in this matter.

Section 9, as to my understanding, has a tendency to take treaty rights away from the Indians. In all I oppose the bill entirely on the grounds that it has no place alongside or in a jurisdictional act.

JOHN BROKER.

The CHAIRMAN. Who is next?

Mr. MERITT. Attorney McDonald would like to be heard now.

The CHAIRMAN. As we are trying to close to-day, can you do with 10 minutes?

Mr. McDONALD. It is out of the question.

The CHAIRMAN. How about 15?

Mr. McDONALD. I would ask your committee to give me until adjournment hour at 1 o'clock.

The CHAIRMAN. Are there any other witnesses?

Mr. MERITT. Yes, sir; two Red Lake Indians and Attorney Henderson.

The CHAIRMAN. Can't you start in and make your statement as brief as possible and submit the balance in writing?

Mr. McDONALD. I will do this: I will start in, and then stop if the committee desires at any time.

The CHAIRMAN. You are going to talk in behalf of the Red Lakes?

Mr. McDONALD. They will get the benefit.

The CHAIRMAN. Then, why do we need to hear from the other two witnesses on Red Lake? Are they in accord with you on this matter?

Mr. McDONALD. I think they are with reference to the Red Lake situation.

The CHAIRMAN. Well, if you could embody in your statement that of the other two, wouldn't that be satisfactory and agreeable?

Mr. MERITT. They should be heard, inasmuch as they are delegates here.

The CHAIRMAN. All right, Mr. McDonald, you may go ahead and see where we finish up.

STATEMENT OF MR. E. E. McDONALD.

Mr. McDONALD. Mr. Chairman and gentlemen of the committee, I assure you that you are not as anxious to finish this as I am. I have been here since Monday and am very anxious to be at home.

The CHAIRMAN. Mr. McDonald has already qualified.

Mr. McDONALD. Let me speak with reference to the treaties. I have here volume 18 of a publication of the Bureau of American Ethnology, and it is the same volume used by Congressman Steenerson. I endeavored to secure this, and it is now presented to your committee by the bureau at the suggestion of Dr. J. Walter Fewkes. It is difficult to handle, and I have mislaid my glasses, but if I may

move over here I will try to let the entire committee see this entire situation.

The CHAIRMAN. Now, are you going to make a statement about that condition different from what Mr. Steenerson did?

Mr. McDONALD. It will be additional.

The CHAIRMAN. Additional, but not contrary to what he said?

Mr. McDONALD. I may cover briefly some things he said.

I refer to double page 33 of the maps. In this book will be found maps showing the cessions and the reservations on them from the United States. This yellow [indicating] here, No. 289, the southwestern portion of the State, was ceded by the Sioux. You will notice another small cession, 243, and then we come to the cession No. 242 on this page [indicating]. That cession, Mr. Chairman, included a large area in Wisconsin, so that when that cession was, in 1838—this little cession here [indicating], 268, was in 1846. This little cession or reservation, 269, that was a reservation in 1847. That was ceded to the Winnebagoes, and it was intended as a bumper State between the Sioux and the Chippewas.

Now, in 1854, this large area around Duluth was ceded to the United States; it is numbered 332—1854. Now, in 1855, this territory, No. 357, was ceded to the United States with several small reservations. Those reservations—to start with, they are described in the treaty—were four friendly agencies on the south side of Mille Lacs Creek, which was in the territory ceded to the United States by the treaty of 1837; another little reservation—you will see the areas here, and I hope you will consult this—was the Gull Lake Reservation near Brainerd; another little reservation called Sandy Lake—this is Rabbit Lake [indicating]—and another at Grand Rapids. Then another one, Mr. Chairman, a small reservation here, Leech Lake; and another one, a little one, around Winnibigoshish; and another one around Cass Lake.

Now, with the exception of this, there remain in Minnesota but Bois Forte Reservation, 462, ceded in 1862, and this territory marked yellow and green [indicating] 446 and 445.

Now, that was the condition of the Indian reservations in Minnesota. These Indians, the Pembinas and Red Lake Indians, enjoyed this property without any cession or act on the part of the United States; their rights were rights of persons in possession.

Now, this treaty of 1855 contained this clause; it goes directly to the question of the rights of all other Indians upon the Red Lake territory, except the Red Lake Indians.

I read now from the treaty with the Chippewa Indians of 1855, proclaimed April 7, 1855. Now, mark you:

ARTICLE I. The Mississippi—

Now, the Mississippi Indians were those that lived up and down the Mississippi River, as far up as Winnibigoshish. The Pillagers, there were two bands, one in the Western part of the State that joined in this cession to the Winnebagoes.

The Mississippi or Pillager Indians hereby cede and sell to the United States.

Now, the Winnibigoshish Indians, if you please, gentlemen, were located at Red Lake; they were no part of the Red Lake or Pembina Bands. Those classes of Indians ceded and sold and conveyed all that territory in this color [indicating on map], which is the large

extent occupying one-third of the north half of the entire State of Minnesota, reserving only the small isolated pieces you see here on this map [indicating].

Now, gentlemen, if you have occasion to use this book you will see these numbers 332 refer to a schedule of land cessions in the first part of the book, and that gives you an abstract of the treaty, or the act of Congress, relating to the territory indicated on that map. Each one of them make such a reference. I will not read any of them, because I want to hasten on.

Now, after that description we find this language—and it has not been called to the attention of your committee, and unless you made a careful survey of this entire act it might esoepe your attention.

And the said Indians do further fully and entirely relinquish and convey to the United States any and all right, title, and interest of whatsoever nature the same may be which they may now have in and to any other lands in the Territory of Minnesota or elsewhere

Now, it is contended by the gentlemen who represent the general council—I read from section 1, the last portion of that act. It is the contention of the gentlemen who represent the General Council of Chippewa Indians of Minnesota—the voluntary association—that at the time that treaty of 1855 was made, and later in 1889 when the Nelson Act was passed and submitted to the Chippewas, that the Chippewa Indians that he represents, other than the Red Lakes, and the Pembinas, had a common interest in the lands in the State of Minnesota. Such a contention can not find any support by reason of the fact that in 1855 they ceded ‘all their right, title, and interest of whatsoever nature the same may be,’ which was based upon their possession “which they may now have in and to any other lands in the Territory of Minnesota or elsewhere.” There is no act of Congress that gives to these gentlemen that are now seeking to claim an interest in the Red Lake Indians’ property any right, title, or interest therein whatsoever; and it is well known that their title to the land was by reason of the fact that they were in possession thereof as members of some Indian tribe, nation, or band.

Now, let me hastily—and I do hate to be hurried, and I am obliged to hurry, and I am not blaming the committee—let me hastily call attention to the Nelson Act. I will say to you gentlemen I am somewhat familiar with this act, because we tried to prevent Section VII of that treaty being enforced in our territory. I brought suit to restrain “Pussyfoot” Johnson from interfering with our saloons and breweries. Calling attention to the so-called Nelson Act, passed and approved January 14, 1889, and that language is important here in this consideration. And may I read, Mr. Chairman, because my remarks will be connected to it.

That the President of the United States is hereby authorized and directed within sixty days after the passage of this act, to designate and appoint three commissioners, one of whom shall be a citizen of Minnesota, whose duty it shall be, as soon as practicable after their appointment, to negotiate with all the different bands or tribes of Chippewa Indians—

The word “nation” has not been applied to any of the Chippewa Indians since, I think, 1847.

bands or tribes of Chippewa Indians in the State of Minnesota for the complete cession and relinquishment in writing of all their title and interest in and to all the reservations of said Indians in the State of Minnesota, except the White Earth and Red Lake

Reservations, and to all and so much of these two reservations as, in the judgment of said commission, is not required to make and fill the allotments required by this and existing acts, and shall have been reserved by the commissioners for said purposes.

Now, it excepted from the effect of this act all that portion of the Red Lake Reservation, which was this large territory in this yellow on this map [indicating] 446; the Pembina territory having been ceded in 1863 by the Pembina Indians and the Red Lakes, so that this vast territory was referred to in that act and that portion of it that, in the language of the statute, was, "in the judgment of said commission required to make and fill all allotments required by this and existing acts," and excepting that portion "which was reserved by the commission for said purposes."

Now, it was the judgment of these commissioners that the amount to be retained for that purpose, and the amount that was not by the Red Lake Indians ceded, should be the area shown in this map on page 35 in yellow within the border of the other map, which showed the original Red Lake Reservation. Now, that area was described by the commissioners as being the territory which in the language of the statute "except the White Earth and Red Lake Reservations, and to all and so much of those two reservations as, in the judgment of said commission, is not required to make and fill the allotment required by this and existing acts, and shall not have been reserved by the commissioners for said purposes."

It was not, Mr. Chairman; the amount to be reserved was not the amount of land necessary to allot the Red Lake Indians yesterday, to-day, or to-morrow, but the amount that was reserved from that act was the amount that in the judgment of the commissioners then was deemed necessary to fill the allotments of the Red Lake Indians and the amounts which they "reserved for said purposes." So that, in my opinion, that question was settled then and there when the judgment of those commissioners was announced. It can not be settled now by a determination of how much land is needed to allot those Indians. Everything was ceded except that which those commissioners deemed necessary for that purpose, and they deemed that tract necessary which you see on that map in yellow [indicating].

Now, I am not going into the question of this Thief River Falls cession, except to call it to your attention; it is at the west end—Congressman Steenerson said it was at the east end—it should have been west. It is this portion that I have put within the boundaries of the red lines. Now, may I not call your attention to this author's findings, the reference to this subject? Refer to page 934 of the schedule of Indian land cessions found in this volume, and you will read—this is the conclusion of the editor as to what reserved and what did not come within the Nelson act:

Ceded to the United States all their title and interest in so much of the Red Lake reservations as is not embraced in the following boundaries: Commencing at a point on Thief River where the same crosses Marshall and Polk Counties—

and then they go on and describe, Mr. Chairman, this area that I have pointed out to you; they describe that area in yellow that is within this blue as being in their judgment necessary for the purpose of the allotment of the Red Lake Indians, and it was so set aside, and it never came within the force or application of the Nelson Act.

There is considerable talk about the mixed blood, and so on——

The CHAIRMAN (interposing). Before you leave that, what do you say to this paragraph here in the hearings, or report of that commission? After outlining the territory that you have just suggested, they use this language:

This is larger than they will eventually require, but as there are swamps and other untillable land it can not be fully allotted until survey has been made:

Mr. McDONALD. They evidently had in mind that much was absolutely worthless, but that did not change the fact that they determined the quantity that was to be withheld from the Nelson Act. The reason they did it does not make any difference. The amount they did withhold is the property of the Red Lake Indians, because it has never passed from them. It makes no difference what the purpose was. They have violated the provisions of the statute, but that was their selection.

Now, this matter of mixed blood and full blood is important only as the reason why there is no harmony, and let me say to you gentlemen in what I have said and may say I refer to the Indians—I mean those people of full blood, or those people of so nearly full blood and those people of such customs and habits and manner of living that they are really recognized and accepted as Indians; and the mixed bloods are those people who by reason of the quantity of blood—white blood, if you please, or by reason of their surroundings, their modes of life, customs, and so on, are not generally known as Indians. The gentlemen that represent this general council, many of them, are not looked upon by us as Indians. They are scholars; they are business men; they are all skilled in business affairs. If, for instance, you have heard a gentleman spoken of, and his children, and the payments to his children, we would never think that you were speaking of him, if you spoke of an Indian. He is free, and they mingle with those gentlemen the same as if they were white men. They are not distinct from us, so far as that is concerned. And let me call your attention to the fact that prior to the creation of the White Earth Reservation, which is shown in another map here, if the committee please—this reservation here, 6 miles square [indicating], created by the act of 1867. Some gentlemen inquired the other day in reference to what had become of the Pembinas. The Pembinas were up here [indicating]; the Red Lakes and the Pembinas were occupying a large area, clear up into Dakota; they were given a large reservation, and for the time were disposed of.

They had ceded their big reservation above here [indicating]. Now, prior to the formation of that reservation in 1867 the mixed bloods were never recognized as entitled to any portion of any reservation. Now, bear this in mind, gentlemen; after the White Earth Reservation was created the mixed bloods, no matter where they were, were not recognized as entitled to any portion of the reservation; they were taken care of in this way: The treaty of 1837, which ceded that portion in western and central Minnesota, gave the mixed bloods a cash payment of \$100,000. The treaty of 1855 gave the mixed bloods what is known as scrip, or the right to locate 80 acres of land upon the lands ceded. That is when the Indians ceded that entire territory to the United States, with the exception of these few reservations—the White Earth was not in existence then—the mixed bloods were permitted to take—no restrictions—

were permitted to take 80 acres of land; that belonged to them. The treaty of 1863, which was this treaty here [indicating], the mixed bloods were permitted to take within that territory 160 acres of land. Now, under the 1837 treaty, which gave the mixed bloods this \$100,000—well, I am not sure about that—but under some of these treaties Mr. Fairbanks's ancestor was given scrip for 80 acres that was located on some ceded lands.

The records of the Land Office disclose it. I have it here in my grip. The Beaulieu family, recognized as half-breeds, and outside of the Indian family, were also given their cessions upon the ceded portion of the land. But there is not anywhere in any of these treaties a recognition of the mixed bloods as being entitled to participate in any reservation.

Now, briefly on this matter of the White Earth Reservation, prior to the unfortunate legislation known as the Clapp amendment, the only way in which you could get those lands from those Indians there, Chippewas and mixed bloods, was that some of them should die, and then they had what was known in the law as a dead allotment. Then when you had a dead allotment you could go into the probate court and have an administrator appointed for the heirs. Then the administrator could sell the land belonging to those representatives. That was done, and the records disclose that a man who used to be a member of this general council, Mr. Gus H. Beaulieu, acted as administrator in a number of those dead allotments.

Finally that matter became a little slow, and so these men, these mixed bloods, principally white bloods, imposed upon Senator Clapp, as I understand the situation, and made him believe that because of some legislation or some department rule they were being denied the right to enjoy their property, substantially the same as the representations that are made here now relating to some mixed bloods. Acting upon these representations, Senator Clapp proposed the Clapp amendment, and in that he was wrong. He was our Senator, a man that we liked very much, but he was in error. Instead, Mr. Chairman, of determining whether they should enjoy their rights or not, based upon their competency and fitness to administer their affairs, they based it upon the question of whether they had any white blood in them at all. It was supposed, as I understand it, by Senator Clapp and others that the courts would hold that a mixed blood was a man that was practically a white man, but the courts held differently. No matter how small a degree of Indian blood was found in a person, the court held him to be a mixed blood.

Then this matter of looting these unfortunate people started there in White Earth. I do not care to refer to these matters except to say to you gentlemen that they are matters which took place not only in the Interior Office but in your Department of Justice.

Now, gentlemen, let us turn to this bill but briefly. The Chippewa Indians were confronted with what was known as the first Ellsworth bill. I call your attention to the fact that three Congressmen, formerly Mr. Miller, Mr. Lindbergh, and Mr. Steenerson, represented all of this area, and afterwards it was Mr. Carss, Mr. Knutson, and Mr. Steenerson. The Indians were confronted with a bill a year ago, as I recollect it, which was known as the Ellsworth bill. That was followed by H. R. 9924. The first bill was 6461 and it was followed

by 9924, and then by H. R. 12103, then by the committee reprint, now by H. R. 12972 and H. R. 12973.

May I use the committee print?

The CHAIRMAN. I should think that would be the one that you should direct your remarks to.

Mr. McDONALD. I want to finish as quickly as I can, Mr. Chairman.

The CHAIRMAN. We will give you the rest of the time until 1 o'clock.

Mr. McDONALD. Thank you. I speak now of some of the changes in this bill, for the reason that it will explain away such questions as have been raised by Mr. Caswell, Mr. Lufkin, and this old gentleman, whose name I can not speak, Mr. Butcher, whom you have not heard, Mr. Broker, and these gentlemen who represent specifically the Red Lake Indians. I refer to these things because it will tell you in some measure how they questioned the good faith of those men who have proposed this legislation in the form in which it has been proposed.

Now, I call your attention to lines 1 to 9, on page 1 of the reprint, "That a commission of three members, one of whom shall be appointed by the President, one by the Secretary of the Interior, and one by the president of the General Council of the Chippewa Indians of Minnesota"—I am reading it as it was drafted first. That brings us squarely to the question of what is the general council of the Chippewa Indians of Minnesota. A voluntary association—somebody has suggested that it has been incorporated, but it had not been up until some time ago—was formed, and Mr. James I. Coffey, associated with some of these gentlemen, conceived the idea of a general council of Chippewa Indians. They met at a gathering called by the chiefs or head men of the different tribes and they adopted, if you please, Mr. Chairman, a constitution and by-laws, and I ask permission to have that constitution and those by-laws submitted to your committee, and if you desire they may be printed. I have them here, but I will not stop to read them.

The CHAIRMAN. You can submit them.

Mr. McDONALD. Yes, sir. Now, it was thought that this General Council of Chippewa Indians would be the means through which the Chippewa Indians could work out a great deal of good to themselves, and when I speak the words "Chippewa Indians" I mean, just as I said before, those people who were recognized as Indians and not those people who were recognized principally as white men.

Well, matters went on. To show you how deeply they were taking an interest in their affairs, one of these councils passed a resolution that no Chippewa lands should be sold without reserving the minerals, the same as our State of Minnesota is reserving its minerals. The man who drafted the original Ellsworth bill, H. R. 6461, or H. R. 19924, for some reason or other, Mr. Chairman, omitted to put in there a provision that all those lands should be sold subject to mineral reservations, and while I am touching on that point let me remind you, Mr. Chairman, that a gentleman who was a member of the general council, Mr. Gus H. Beaulieu, in his testimony either before the Graham committee or somewhere else—and it is on record in the Bureau of Indian Affairs—testified that he worked for Mr. Congdon, Mr. C. A. Congdon, of Duluth, in purchasing those Indian lands upon the White Earth Reservation. You can easily

learn from Congressman Carss that Mr. Congdon was at that time a very wealthy mining man of Duluth. It is also a matter of record, which the record should disclose, that Mr. G. Hartley, of Duluth, another mining man, bought lands in there.

Now, time ran on, and because of this proposition, which any politician understands, that a majority of a majority can rule an entire body, although they represent only a minority, that was the situation, and as soon as they found it out the control of the General Council of Chippewa Indians of Minnesota passed into the present hands.

They adopted a constitution, which for completeness is probably a good example to some of us white people. They adopted by-laws. The provision, either of that constitution or by-laws, or perhaps both, was that the meetings in different tribes should be held on a certain day in June, after the middle of June, as I recollect it; that those meetings should elect delegates to attend a general council on the first Tuesday or some day in July following. Those by-laws provided for an order of business, and I have them here. They provided that after the meeting was called together the president—mark you, the by-laws governed the meeting in the different tribes, as I recollect it—that the presiding officer, which in the case of the general council was the president of the general council and in the other tribes was their presiding officer—that he should call the meeting to order and should appoint a committee on credentials.

I am going to pass that. My time is short. But let me say that at that meeting held in White Earth, the one where Mr. Dickens presided without any authority whatever, he had no authority under the constitution and by-laws of this general council that is represented here; he had no right to sit there. They did not follow the proceedings, and what Mr. Broker and these other Indians tell you should have taken place did not take place. A committee on credentials was not appointed, and so there at White Earth, when Mr. Dickens refused to follow the by-laws in reference to the order of business, they left that council room and went into a meeting by themselves. Mr. Caswell was there and Mr. Broker was there, and if I misstate it they may correct me. They went and held a meeting by themselves and elected delegates, and both delegations came to Cass Lake. When they presented themselves at Cass Lake, under the by-laws Mr. Morrison, then president of the general council, should have presided. He did not preside.

Mr. BALLINGER. Yes; he did.

Mr. McDONALD. The matter was turned over, as I understand it, by Mr. Morrison to Mr. Dickens.

Mr. MORRISON. Do you make that as a positive statement, that I did that?

Mr. McDONALD. No; not as I understand it.

Mr. MORRISON. I just want to understand it.

Mr. McDONALD. No. Now, this is a fact. There is in the office of the Bureau of Indian Affairs a report of what took place, of all that took place. It is a fact that Mr. Dickens did preside at that meeting when they started in to transact their business. Those gentlemen who had a protesting delegation asked that their rights to sit there, that the question of whether or not the meeting at White Earth was a fair one or not, be passed upon, and they asked that a committee on

credentials should be appointed. It was refused. There was some comment on the question of whether or not the by-laws of the General Council of Chippewas of Minnesota should govern or not, and so the gentlemen who were protesting that the action was absolutely illegal and contrary to the constitution, withdrew, whether or not under the circumstances pointed out by Mr. Broker, I do not know, but they withdrew and held their own council in an adjoining building, I think the armory or the city hall, and they elected officers.

Now, let me go back. In 1915, Mr. Morrison, then acting president of this general council, called what is now known by the Indians as a secret council meeting. Instead of designating the time in June when the councils in the tribes should be held to elect delegates to the council meeting, he called it in February instead of calling it as provided by the constitution and by-laws, and the action of the general council at the previous meeting at Bemidji, July 9. He called it to be held at White Earth, on the White Earth Reservation, June 12. It is true it is claimed that notice of that meeting was published in the Tomahawk, but you have been told that many do not take the Tomahawk or do not read it. It is printed in the English language. It is claimed also that this notice was spread about, but the fact is that it was a meeting held illegally and at the wrong place, some hundred miles away.

Now, at that meeting they passed two infamous resolutions. Gus H. Beaulieu, at that time, I am informed, was a member of the general council executive committee. There was passed a resolution requesting Congress to appropriate to Gus H. Beaulieu for his services and expenses in connection with the Mille Lac litigation, \$2,500 a year for 18½ years, making a total of about \$45,500, and appropriating to Mr. Fairbanks, the gentleman who sits here, naming him, and Waweyakamik and Andrew Sakesik, members of the Mille Lac Tribe, acquaintances of mine, \$3,500 for the same period, making a total, Mr. Chairman, of \$110,500, if my computation is correct.

In addition to that, that secret meeting there, some time ago—and I want to give Mr. Beaulieu credit for action in connection with that, because he was the gentleman who took steps to rescind the matter after the matter became generally known—some time ago in the early morning of one of those nights, I think the night of the 12th, that same body of men, when there were only a few present—some give it at 25 and some 35 out of an entire delegation of 120—passed a resolution providing that there should be created a Chippewa claims commission, and named the men. Mr. Fairbanks was one. Some other gentlemen who are here were on that commission, and the president of the general council. They gave them full power to act in reference to the Chippewa matters, including these matters now before this committee, as I recall it. Not only that, but they appointed Mr. Arthur C. Beaulieu as the attorney in fact and agent for all the Chippewas of Minnesota, to make contracts for them with attorneys and in relation to the affairs of the Chippewa Indians. These gentlemen seemed to realize that when that became known there would be an uprising among the Chippewa Indians, that there would be an uprising among some of the half-breeds, and that thing grew until the meeting in 1917. It is to the credit of Mr. Frank Beaulieu that he, seconded by Mr. Morrison, moved that those proceedings be set aside and annulled.

Mr. BALLINGER. They were?

Mr. McDONALD. Of course they were, because in fact they had no legal existence. Now, you will understand why it was that there grew up two factions.

The CHAIRMAN. You have two minutes left.

Mr. McDONALD. One is the faction that you see represented here, and they were able and willing, and the other is the faction of the real Indians and those people who are opposed to the other crowd. What happened? The General Council of Chippewa Indians, as then constituted, had a legislative committeeman here at Washington, and he found that there was circulating among the Members of this Congress a little pamphlet arguing in favor of making this appropriation of \$110,000 to Gus Beaulieu and Mr. Fairbanks and Andrew Sakesik, and so on, right in the face of the fact that the Court of Claims in the Mille Lac case allowed, I think, \$100,000 to the attorneys for the Indians. Gus Beaulieu had a contract with those attorneys that he should receive one-fifth thereof, \$20,000, for his services in connection with the Mille Lac matter. In addition to that, this general council proposes to have this Congress appropriate \$45,000 more to Mr. Beaulieu.

The CHAIRMAN. Gentlemen, the time for recess has arrived, and if there is no objection we will recess until 10.30 to-morrow morning. At that time we must finish up all of the arguments in the case.

Mr. BALLINGER. Could I make a suggestion? If there is any particular provision in this bill to which any one has an objection, will they not call attention to the provision and the reasons for the objection?

The CHAIRMAN. Nobody has done that yet, so far as I can see.

Mr. McDONALD. Just one matter, Mr. Chairman. I started in to call your attention to this statement—

The CHAIRMAN (interposing). The hearing is now ended for the day. We will meet to-morrow morning at 10.30 o'clock.

Thereupon at 1 o'clock p. m. the committee adjourned until to-morrow, March 16, 1920, at 10.30 o'clock a. m.

WRITTEN STATEMENT BY JAMES J. CAFFEY, OF KANSAS CITY, MO.

KANSAS CITY, Mo., March 2, 1920.

Hon. W. L. CARSS, M. C.,

House of Representatives, Washington, D. C.

DEAR MR. CARSS: Recently I have received information that on March 8th the House Committee on Indians Affairs will consider the bills introduced by Mr. Knutson and Mr. Ellsworth, of Minnesota, for the purpose of winding up, the affairs of the Chippewa Indians of Minnesota, a great body of the Chippewa Indians affected by the proposed legislation are within your constituency and they look to you for the protection of their interests.

I want to state to you on behalf of the Chippewa Indians of Minnesota, for your particular information and which they desire that you submit to the House Committee on Indian Affairs on their behalf, that the proposed legislation has not been submitted to the said Chippewa Indians, and they do not know the provisions contained in said proposed legislation, and that they have not given their sanction to any legislation contained in the proposed bills.

That they are opposed to any modification of the present laws which affect their interests, without first having received their sanction.

The custom which Congress and the Government have always followed, where a complete change of policy affecting the Chippewa interests are in contemplation, is

that the legislation proposed for that purpose shall contain a provision that the consent of each individual adult Indian member of said tribes shall first be obtained before the proposed law shall become valid. In effect the said Indians are required to ratify the proposed law before it becomes effective.

But you will observe if you examine the proposed legislation which is intended to change the entire policy of the Government in the administration of the affairs of the said Chippewa Indians, that only those sections of the bill, which the promoters of the proposed legislation can not derive any immediate personal benefit from, they have provided that those sections shall be submitted to and accepted by the General Council of the Chippewa Indians.

But as to certain sections which contain provisions which they can manipulate to their benefit they have not made such a provision for the Chippewa Indians' ratification, but those provisions become law arbitrarily when enacted.

Without going into details the proposed legislation contains very many iniquitous provisions, and for the particular benefit of those men who are promoting the legislation and their blood relatives.

The promoters of the proposed legislation are first of all, Webster Ballinger, attorney at law, Washington, D. C.; Ben L. Fairbanks; Frank D. Beaulieu; John G. Morrison, jr.; Theodore H. Beaulieu.

In contemplation of law, these men are not Chippewa Indians of Minnesota, and legally they do not belong upon the White Earth Indian Reservation, but through fraud and iniquitous pressure upon rascally Indian agents their names have been stealthily placed upon the annuity rolls of the Mississippi bands of Chippewa Indians who occupy the White Earth Indian Reservation.

For your information, and those who are interested in equity and justice to the Indians, I will quote the law as to the legal status of the men I have named above, as Indians and as members of the Mississippi bands upon the White Earth Indian Reservation.

Treaty entered into between the United States and the Mississippi bands of Chippewa Indians of Minnesota, March 19, 1867 (16 Stat., 719) ratified April 8, 1867, provides in article 4 as follows:

"ART. 4. No part of the annuities provided in this or any former treaty with the Chippewas of the Mississippi bands, shall be paid to any half-breed, or mixed blood, except those who actually live with their people, upon one of the reservations belonging to the Chippewa Indians."

The mixed bloods and half-breeds referred to in that treaty are Benjamin L. Fairbanks and his ancestors, Frank B. Beaulieu and his ancestors, John G. Morrison, jr., and his ancestors, and all of the relatives of those men and their ancestors.

At the date of the treaty above quoted, the Fairbanks and the Morrisons and Beaulieus were not members of the Mississippi bands and were not living upon any of the reservations belonging to the Indians, but a number of them lived at the then frontier village of Crow Wing, Minn., on white man's land, and were absolute strangers to the Mississippi bands of Indians. Their occupation was as saloon keepers and small traders at Crow Wing. They were entirely separate and distinct people from the Indians of the Mississippi bands, and they held themselves out as white people among the whites and as mixed bloods among the Indians. Originally they came from Canada, Michigan, and Wisconsin, to Crow Wing. There they held themselves out to the Indians as mixed bloods and made efforts to have their names placed upon the annuity rolls of the Mississippi bands. Generally the Indians were opposed to adopting them into the tribe because of their vicious habits and their abuse of individuals among the Indians.

Because of the efforts of the Fairbanks, the Beaulieus, and the Morrisons to be placed upon the annuity rolls of the Mississippi bands, to which the Indians were opposed, when the treaty of March 19, 1867, was entered into between the United States and the Mississippi bands of Chippewa Indians, the Chief Hole-in-the-Day insisted that the provision designated as article 4, which I have quoted above, be made a part of the treaty for the protection of the Mississippi bands from the efforts of the Beaulieus, the Fairbanks, and the Morrisons to get on the annuity rolls of the Mississippi bands of Chippewa Indians.

Article 4 of the treaty of March 19, 1867, has never been abrogated either by any act of Congress or by any council of the Indians; article 4 is still a law in the statutes of the United States, having the force of the law made by treaty, and is a statutory prohibition standing against Benjamin L. Fairbanks, Frank D. Beaulieu, and John G. Morrison, jr., from being carried upon the annuity rolls of the Mississippi bands, who now occupy the White Earth Indian Reservation, where these men are now enrolled under conditions of fraud and contrary to the statute above quoted (16 Stat., 719).

This is the status of the men, Benjamin L. Fairbanks, Frank D. Beaulieu, and John G. Morrison, jr., as Indians having any right to participate in the affairs of the Indians.

The Indians of the White Earth Indian Reservation have protested every year to the officials of the Indian Department against the retention of these men upon the annuity rolls of the White Earth Reservation, because they are undesirable and are not legal members of the tribe, and because of the statute prohibiting them from participating in the annuities of said Indians.

The Indian Office has been extremely derelict in enforcing the law of the United States provided for the protection of the Indians; it is said, for political reasons.

It is public property among the Indians in Minnesota, that the political reasons are that Benj. L. Fairbanks and Gus H. Beaulieu were the agents and instrumental by the Nichols Chisholm Lumber Co. of Becker County, Minn., in taking and removing many hundred million feet of Pine timber off the White Earth Indian Reservation contrary to law as provided in the act of January 14, 1889. Under the act of January 14, 1889, that vast quantity of pine timber should have been sold at public sale and the proceeds placed in the Treasury of the United States to the credit of the Chippewa Indians of Minnesota as a common fund.

Instead of disposing of it in accordance with the law, agreed upon under a treaty between the United States and the Chippewa Indians of Minnesota, these same so-called mixed bloods, by representing to Congress that they were entitled to additional allotments of land as Indians belonging upon the White Earth Reservation, prevailed upon Congress to enact legislation providing for additional allotments of land to Indians upon the White Earth Reservation, which under existing law should be agricultural land.

Instead of allotting agricultural land under existing law, these men with the political pull controlled by the Nichols Chisholm Lumber Co. manipulated the Indian agent at White Earth to negligently allot to these same mixed bloods and their relatives and close friends about all of the valuable pine timber lands upon the White Earth Indian Reservation, contrary to the provisions affecting this identical timber land, under the act of January 14, 1889. The value of the timber taken from these lands in allotments to individuals which are these so-called mixed bloods ranged from \$10,000 to \$25,000 to each individual; this includes Ben L. Fairbanks, Frank D. Beaulieu, and John G. Morrison, jr., who are legally prohibited from participating in the benefits of the property of the Mississippi bands of Chippewa Indians, who occupy the White Earth Reservation.

A few years ago upon the complaint of the Indians of the White Earth Reservation to the honorable Commissioner of Indian Affairs that the Fairbanks, Beaulieus, and Morrisons were on the annuity rolls illegally, the Interior Department sent an inspector to the White Earth Reservation to investigate the status of the men complained of; the inspector, Mr. Thomas G. Shearman, made his report to the department, and upon the statement of facts submitted by him he recommended that these men be stricken from the annuity rolls of the White Earth Agency. Accordingly the names of these men were suspended from the rolls, and at this point of the affair I am reliably informed that the Nichols Chisholm Lumber Co. seeing that their interests were being threatened if the names of the Ben Fairbanks and Gus H. Beaulieus and the others who unlawfully sold the pine timber belonging to the Chippewa Indians of the State of Minnesota in common, which includes Ben L. Fairbanks, Frank D. Beaulieu, John G. Morrison, jr., and the others who were given allotments on the pine lands under the additional allotment act, were suspended from the rolls and entirely eliminated from said rolls, that action would be taken by the Government to recover the value of the pine so taken, and the said lumber company would be liable for the value of the timber so taken. To protect their interests, as I have been informed, Mr. T. Shevlin made a trip to Washington and had a consultation with the honorable Secretary of the Interior, during the very critical time the elimination of the names of Ben L. Fairbanks, Frank D. Beaulieu, and John G. Morrison, jr., from the rolls, were under active consideration by the Interior Department. Shortly after the visit of Mr. Shevlin to the honorable Secretary of the Interior, the department instructed the Indian Office to resume the payment to the suspendees the annuities as theretofore.

These men who participated in pulling off this gigantic fraud and received the benefits of \$10,000 to \$25,000 each from it, Benj. L. Fairbanks, Frank D. Beaulieu, and John G. Morrison, jr., are now before Congress with another bill proposing legislation opening another opportunity for them for another gigantic fraud. These men have apparently used the Congress of the United States for the past 18 or 20 years as pawns are used by a chess player. In other words, they have used Congress to attain a position from which they are enabled to rob and plunder the Chippewa Indians

of Minnesota. We have made an appeal to many Member of Congress for protection from the iniquities of these men. When will Congress awaken to the fact that they are being used as mere pawns by these men and create for them further opportunities for plundering the Chippewas of Minnesota?

In the year 1906 a provision was inserted in the Indian appropriation bill at the instance of these men, providing for the removal of the restrictions upon the alienation of the allotments of mixed-blood Indians upon the White Earth Indian Reservation. To accomplish that result, they represented to Congress that the mixed-blood Indians on the White Earth Indian Reservation were competent to manage their affairs judiciously, that the restrictions then upon the alienation of their allotments were hampering the progress of the individual mixed blood. Without adequate information as to the truth of the representations of these men, Congress very unwisely, as many of the Members of Congress have since admitted, enacted the law sought by these men, which removed the restrictions from the alienation of the allotments of the mixed-blood Indians on the White Earth Reservation.

The immediate result of the enactment of that law was the sale and disposal of the allotments of about 90 per cent of the mixed bloods affected by that act for sums ranging from one-fourth to one-half the value of their lands, which was soon squandered and wasted, leaving them homeless and without land.

Benjamin Fairbanks, Gus H. Beaulieu, John W. Carl, Theodore H. Beaulieu, and others of their gang, immediately took advantage of the incompetency of those mixed bloods whom they represented to Congress were competent, and commercialized in the allotments of those mixed bloods for personal profit, as they intended to do and for which they procured the law;

Under that transaction Ben L. Fairbanks is said to have cleared as profit about \$400,000, Gus H. Beaulieu about \$300,000, John W. Carl about \$200,000.

In his report submitted to the Indian Office of an investigation he was detailed to make covering the Indian situation in Minnesota in the year 1918, Mr. E. B. Linnen, special inspector of the Interior Department, stated that Benjamin L. Fairbanks, John W. Carl, and Theodore H. Beaulieu had actually swindled a large number of the Indians and mined bloods from whom they procured land.

Among the white population in Minnesota, wherever the character of the work of Ben Fairbanks, John G. Morrison, jr., and Frank D. Beaulieu are known in relation to procuring legislation affecting Indian matters they receive no support and are turned down cold.

I happened to be in the city of Bemidji, Minn., on the 2d day of last October, where I had business with a citizen of that city. I was informed by the gentleman that the Commercial Club of the city of Bemidji, Minn., was then in session, and was invited by him to attend that meeting, which I did. When we arrived at the club rooms the meeting was then in session and Frank D. Beaulieu was then addressing the meeting in relation to the legislation affecting the Indians of Minnesota, and more particularly the proposed legislation embodied in the bills introduced by Mr. Knutson and Mr. Ellsworth of Minnesota, which is up for consideration on March 8 before the House Committee on Indian Affairs. After hearing Frank Beaulieu's statements and explanations covering the entire matter, a few questions were asked him by members of the club. The club proposed a vote upon his proposition.

Frank Beaulieu then saw his scheme had been laid bare by a question of one of the members of the club, and Beaulieu requested the club not to take a vote on his proposition but to drop it. He stated to the club that if it was rejected some person would undertake to make capital of it; but the club disregarded his request and took a vote upon it. His proposition was rejected by a the entire club and it did not receive the support even of a single vote.

The Commercial Club of the city of Bemidji, Minn., is composed of live business men, who have lived many years in the Indian country, the country occupied by the Chippewa Indians of Minnesota. I know from personal observation that certain men members of that club have made a study of different matters in relation to the Chippewa Indians in Minnesota, and they know more about the application of practical business matters to the Indian economic situation in Minnesota, for the real benefit for the Indian, and know as well those matters which are disadvantageous to the Indians than Frank D. Beaulieu or Ben L. Fairbanks and John G. Morrison, jr., including all of the knowledge possessed by Webster Ballinger in relation to the Chippewa situation in Minnesota.

Because the members of that Commercial Club are honest, so far as their interests in Chippewa matters are concerned, and they have no axes to grind, and they are not out to swindle the Indians, and they do not propose to lend themselves to any gang of swindlers for that purpose.

That is the reason the proposed legislation to be considered by the House Committee on Indian Affairs, on March 8, was turned down and summarily rejected by that Commercial Club, as proposed and advocated by Frank D. Beaulieu, Ben L. Fairbanks, and John G. Morrison, jr.

It may interest Congress to note that the Indian Office has, contrary to the best interests of the Chippewa Indians of Minnesota, projected itself into the local affairs of the Chippewa Indians of Minnesota by directing its local Indian agent of the White Earth Reservation, Mr. W. F. Dickens, to act as the chairman of the local council on the White Earth Reservation in June, 1919, to the exclusion of the regularly elected chairman by the Indians, which enabled the Ben L. Fairbanks, Frank D. Beaulieu, and John G. Morrison, jr., gangsters to make a show of control, with the use of the Government police and the sheriff of Mahnom County, Minn., contrary to the laws of the said local council, and then followed up their object of forcing the matter of seating John G. Morrison, jr., as the president of the general council. The Indian Office instructed Mr. Dickens to act as chairman at the opening of the general council, at Cass Lake last July, which was objected to by the Indians entirely, because such an act was contrary to the constitution of the general council, which provides that the president shall preside. Under the instructions had by Mr. Dickens from the Indian Office, he employed the sheriff and four or five deputies of Cass County, Minn., and placed these officers in front of him where the Indians stood to address the chair or the council. This was done to intimidate the Indians and to suppress them should they undertake to have the regular order of procedure of the general council enforced. This was done to further the ends of Ben L. Fairbanks, Frank D. Beaulieu, John G. Morrison, jr. The Indians would not submit to such high-handed work, so they separated themselves from the Indian Office gang and held the regular general council of the Chippewa Indians of Minnesota.

The Indian Office general council was furnished with resolutions prepared beforehand by the attorney, Webster Ballinger, from Washington, D. C., who was on hand for the prearranged occasion, and that is the stuff they now have before Congress for consideration to be enacted into law.

As early as the Indian Office received the report of Mr. Dickens, the usurper, of their transaction in that affair, the Indian Office, very precipitately sent out notices that it had recognized Mr. John G. Morrison, jr., as the duly elected president of the general council, when the fact was that the Indian Office council had but one Indian attending it, and that was Capt. John Smith, who has affiliated with the Beaulieus for years. The others who were at the Indian Office council are those who are in the same status as Ben L. Fairbanks, Frank D. Beaulieu, and John G. Morrison, jr., prohibited from participating in the annuities of the Mississippi bands of Chippewa Indians, as provided in article 4 of the treaty of March 19, 1867. Webster Ballinger was at the Indian Office council officiously arranging and promoting the adoption of the resolutions which purport the approval by the Indians of the legislation now before Congress promoted by Ballinger, Fairbanks, Beaulieu, and John G. Morrison, jr.

Mr. W. F. Dickens domineered the proceedings of the Indian Office council as the representative of the Indian Office under his instructions to take charge of the procedure. Kindly submit this matter to the House Committee on Indian Affairs for its information upon the matter of the proposed legislation referred to.

Respectfully, yours,

JAMES I. CAFFEY,
Representative of the Chippewa General Council (Inc.).

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Tuesday, March 16, 1920.

The committee met at 10.30 o'clock a. m., Hon. Homer P. Snyder (chairman), presiding.

Mr. SNYDER. Gentlemen, we will resume the hearing with Mr. McDonald as the witness, and we have an agreement that he shall have 10 minutes additional, if there be no objection.

STATEMENT OF MR. E. E. M'DONALD, OF BEMIDJI, MINN., REPRESENTING FULL-BLOOD CHIPPEWA INDIANS—Resumed.

Mr. McDONALD. Touching upon the question, gentlemen, of expenditures of Indian funds, I desire to have incorporated as part of my remarks an itemized statement to be furnished by your committee relating to the items of \$2,344.64 to John W. Carl, \$1,566.75 paid to Henry W. Warren, \$720.10 paid to B. L. Fairbanks, \$1,684.25 paid to Webster Ballinger, as appears in this statement, which is marked "Exhibit A," which I desire to have made and printed as part of my remarks, if the committee please.

The CHAIRMAN. It is so ordered.

(The paper referred to follows:)

EXHIBIT A.

Amounts expended from the appropriation of \$10,000, act of May 25, 1918 (Public, No. 159), for council and delegation of Chippewa Indians.

Claim.	Date, 1918.	Name.	Amount.
307800	Jan. 28.....	Henry Warren.....	\$276.25
307801	.....do.....	John W. Carl.....	585.40
308502	July 3.....	B. L. Fairbanks.....	370.30
311262	June 14.....	Frank D. Beaulieu.....	560.51
311150	.....do.....	Henry Warren.....	793.75
311151	.....do.....	John W. Carl.....	1,054.00
311152	.....do.....	.....do.....	419.52
311153	.....do.....	Henry W. Warren.....	241.77
308459	June 21.....	John G. Morrison, jr.....	152.13
308460	.....do.....	B. L. Fairbanks.....	349.74
311476	June 27.....	Webster Ballinger.....	1,684.25
315931	Jan. 3, 1919.....	Henry Warren.....	254.95
315931	.....do.....	John W. Carl.....	285.92
			7,023.36

SUMMARY.

John W. Carl.....	\$2,344.64
Henry W. Warren.....	1,566.75
B. L. Fairbanks.....	720.10
Frank D. Beaulieu.....	560.51
John G. Morrison.....	152.13
Webster Ballinger.....	1,684.25
	7,023.36

Mr. McDONALD. As I understand it, the bureau will furnish the detailed statement of these items that I have referred to and checked, and that detailed statement will be made part of my remarks?

The CHAIRMAN. It is so ordered.

(The paper referred to follows:)

Regarding the statement submitted by Attorney McDonald as to expenditures made from the tribal funds of the Chippewa Indians of Minnesota, appropriated by the act of May 25, 1918, (40 Stat. L., 572), the sum of \$2,344.64 shown to have been paid or expended on account of John W. Carl, a member of the Chippewa Legislative Committee, represents per diem, traveling expenses, board and lodging of Mr. Carl and for stenographic service employed at his request. The amounts actually expended from the above appropriation by or on account of Mr. Carl were as follows:

Per diem.....	\$1,860.00
Traveling expenses.....	165.40
Stenographic services.....	54.00
Board and lodging.....	1,051.09
Total.....	\$3,130.49

The amount shown to have been expended on account of Henry W. Warren, Chippewa delegate, included the following items:

Per diem.....	\$888.00
Traveling expenses, etc.....	686.73
Total.....	\$1,566.73

The item of \$720.10 shown to have been expended on account of B. F. Fairbanks, included per diem and traveling expenses. The total actual expenditures were as follows:

Per diem.....	\$899.84
Traveling expenses.....	310.81
Total.....	\$1,210.65

The sum of \$1,684.25 expended on account of Webster Ballinger, Chippewa attorney, included \$1,500 for legal services and \$184.25 for stenographic services, etc. The total amount actually expended from the above appropriation on account of Mr. Ballinger included \$2,500 for legal services and \$184.25 for stenographic services, etc.

Mr. McDONALD. Something has been said, gentlemen, with reference to the frauds in cutting pine, and the conclusion may be drawn from the statement that the general council was responsible for the adoption of the plan of stealing.

Mr. BALLINGER. There was no claim of that kind.

Mr. McDONALD. Of stealing the logs?

The CHAIRMAN. Just a moment—do you want that statement of Mr. Ballinger's to go in at that point?

Mr. McDONALD. It may. I have no objection to it. I so understood the proposition. But so that your committee may be fully advised on that subject I will call your attention to a portion of section 5 of the act of June 27, 1902. I have in my hands—it is from my own library, so I can not give it to you—laws and treaties by Kappler, vol. 1, marked "Laws, second edition." Your committee will have access to it.

The CHAIRMAN. What year is that?

Mr. McDONALD. It seems to have been printed by the Government Printing Office in 1904. On pages 759 and 740 Congress has definitely and in detail directed the manner in which all pine shall be sold.

Calling your attention now to this same subject of fraud 'I read from a portion of the report of the Subcommittee of the Committee on Expenditures in the Interior Department, which bears date February 2, 1912, and this part is marked "17, page 946", if I am correct. At that time, Mr. Chairman and gentlemen of the committee, it was proposed to dispose of some of the Indian pines and the advertisement, as I recollect it—or as I am advised—provided that the timber should be sold and payment made therefor according to what we call bank scale, as provided in this act—or similarly. Now there was opposition made to that plan and the opposition came from Mr. Beaulieu—not Mr. Gus Beaulieu, so that I may not confuse—and Mr. Ben L. Fairbanks, and on these two pages, 946 and 947 the matter discussed in Mr. Gus Beaulieu's testimony, as I understood it, was given under oath, and you will learn from that that they did not wish the timber sold and paid for according to bank scale, preferring the other method of paying for it by estimate or in some other way, contract, lump price or something, and these two gentlemen, as I recollect it, went to St. Paul and met Senator Clapp, and upon their representa-

tions that that manner of selling timber according to bank scale would work an injustice upon the Indians, some steps were taken whereby Senator Clapp used his influence on the Secretary of the Interior and the bids were held up, and I do not know, although it is all disclosed in this proposition—

The CHAIRMAN (interposing). Will you explain as concisely as possible what the term "bank scale" means?

Mr. McDONALD. I think I can best do that by reading this statute. It is covered by a statute, and I will read it hurriedly. This relates to the sale and is an amendment, if the committee please, to the act approved January 14, 1889. That is the Nelson Act:

Before being removed from the tract from which they are cut, all logs cut hereunder shall be stamped and bark marked—that is, stamped on the end with a big hammer which drives the fiber in and makes an indentation bearing the mark they use as that mark—shall be stamped and bark marked—which is done by an ax cutting whatever mark upon the outside they want—bark marked by the logger and numbered—that is, each log is numbered—and scaled by competent and experienced scalers to be appointed by the Secretary of the Interior and paid such reasonable salaries as may be fixed by him. Such scalers shall keep in suitable books for reference a record of the marks, also a complete list of the number of hauled logs with the scale of each log set opposite its number; that is, log. No. 1 would be white pine, 16 feet long 8 inches in diameter at the top and contain 32 feet of timber. That is put in a book. Also a complete list and number of all logs with the sale of each log set opposite its number, said scale books to be open to the inspection of the check scaler or to any authorized Government representative at all times, and said logs shall be landed separately from all other logs, and the title to said logs shall remain in the United States for the benefit of the Indians, and said logs shall not be removed from the place of landing until the purchase price agreed upon shall be fully paid to such officer of the Indian department as shall be designated by the Secretary of the Interior to account for and receive the same; and the Secretary of the Interior may, at the request of the chiefs of the said bands or tribes of Chippewa Indians of the State of Minnesota interested in the said timber sale, appoint check scalers to verify and inspect the work of the Government scalers, the said check scalers to be designated by the said chiefs and paid out of the funds of the Indians such reasonable compensation as may be fixed by the Secretary of the Interior.

The CHAIRMAN. That is sufficient.

Mr. McDONALD. Now, passing on hurriedly, touching this question of frauds upon the White Earth Indians, the testimony taken in the Graham investigation disclosed that after the adoption of the Clapp amendment there was great activity among those who were seeking to secure these lands, and there was a lumber company—the record discloses the name—the Nichols-Chisholm Lumber Co., operating in that locality, with its mill—I don't know where the mill was located. It appears from this testimony that Mr. Fairbanks—Benjamin L. Fairbanks—now a member of this general council and very active in this proposition, was—this is the testimony of Gus H. Beaulieu, who was then also connected with this council—they were then in the employ, each of them, of the Nichols-Chisholm Lumber Co., receiving \$100 a month added time when the Indians—when I speak of the Indians, I speak of these people that you listened to here—the Indians supposed that these men were acting in their interest and giving them advice at a time when they were drawing \$100 a month salary from the Nichols-Chisholm Lumber Co.

The CHAIRMAN. The Chair is sorry to state to the gentleman that his time has expired, and he will be permitted to revise and extend his remarks under the suggestion made yesterday.

Mr. McDONALD. And if the chairman pleases, as I am obliged to leave for home to-night, and if I can have a few days to do that?

The CHAIRMAN. You can have 10 days. Is that enough?

Mr. McDONALD. Yes; thank you.

(Mr. McDonald's written statement follows:)

At the time of taking a recess interrupting my statements, I had referred to the fact that at a secret meeting of the so-called general council of Chippewa Indians of Minnesota held at White Earth June 12-14, 1915, a resolution was passed urging Congress to appropriate from the funds belonging to the Chippewa Indians of Minnesota about \$110,000, of which about \$45,000 was to go to the benefit of Gus Beaulieu and the remainder to Benjamin L. Fairbanks and others. When this information came to the attention of James I. Coffey, then a legislative committeeman of that general council, he immediately addressed a communication to a number of the headmen and representatives of the general council calling attention to the fact that a bill carrying such appropriation of Indian funds had been presented to Congressman Lindberg, of Minnesota and that there was being circulated amongst the members of Congress a written argument in the form of a pamphlet favoring the passage of such legislation. The Indians became very much excited and expressed their greatest opposition to this appropriation of the funds of the Chippewa Indians of Minnesota. This opposition grew until a meeting was called of all the headmen of tribes or bands of Chippewa Indians of Minnesota as well as many representatives of the said general council.

That written notice of the charges preferred against Mr. Morrison, Fairbanks, and others was duly given to each of them, but that none of them appeared at said council meeting.

That this meeting was held at the Indian Village of Ball Club, Itasca County, Minn., on the 25th day of April, 1918. It was called for the purpose of discussing and investigating the alleged unauthorized acts of John G. Morrison, jr., president of the General Council of Chippewa Indians of Minnesota, and the other officers that were in any manner connected with the attempt to rob the Indian funds. There were present at this meeting a very large representation of Indians. Each reservation was represented with the exception of Grand Portage and Nett Lake, and said meeting was duly organized, Edward M. Wilson being elected chairman of the council and James A. Wakonabo secretary. That the general council unanimously adopted the following resolutions:

RESOLUTION 1.

Whereas this council represents the majority of the Chippewa Indians of Minnesota, and therefore it is hereby declared to be the general council of all the Chippewas of Minnesota.

RESOLUTION 2.

Whereas certain charges have been filed by James I. Coffey, at this general council of all Chippewas of Minnesota, against John G. Morrison, jr., president of the general council, and John W. Carl, B. L. Fairbanks, Henry W. Warren, Frank D. Beaulieu, E. J. Warren, George A. Berry, William Potter, and Nay-she-kay-we-gah-bow, as violating the constitution and by-laws of the General Council of the Chippewa Indians of Minnesota, and the resolutions of said general council, in promoting legislation, as attorneys and legislative committeemen of said Chippewa Indians of Minnesota, which was calculated to the injury and loss of said Chippewa Indians of Minnesota, as evidenced in the resolutions of said general council and the bills H. R. 8841, H. R. 8696, S. 3116, S. 3654; and

Whereas said charges are proven to be true by said resolutions, and said bills introduced in the Congress of the United States; now, therefore, it is hereby

Resolved, That said charges are accepted as true in their entirety, and said John G. Morrison, jr., John W. Carl, B. L. Fairbanks, Henry W. Warren, Frank D. Beaulieu, E. J. Warren, George A. Berry, William Potter, and Nay-she-kay-we-gah-bow, are guilty of the acts charged. And be it further

Resolved, That John G. Morrison, jr., John W. Carl, B. L. Fairbanks, Henry W. Warren, Frank D. Beaulieu, E. J. Warren, George A. Berry, William Potter, and Nay-she-kay-we-gah-bow be, and they are hereby, removed from the offices they are now holding in the general council of the Chippewa Indians of Minnesota, and that said officers and men herein above named shall hereafter and forever be barred from holding seats and voting in the general council of Chippewa Indians of Minnesota.

RESOLUTION 3.

Whereas Paul H. Beaulieu is found to be in sympathy with the John G. Morrison, jr., gang, and therefore is hereby removed from the office or secretary of the general council of Chippewa Indians of Minnesota

RESOLUTION 4.

Whereas the so-called claims commission was created and organized on the 12th day of June, 1915, at White Earth, Minn., and was created under fraudulent conditions for a fraudulent purpose, and it is therefore declared to be fraudulent and is therefore declared to be void.

RESOLUTION 5.

Whereas it is hereby resolved that James I. Coffey is hereby chosen and elected as president of the general council of the Chippewa Indians of Minnesota in the place of John G. Morrison, jr., and be it further resolved that Benjamin Caswell is hereby chosen and duly elected as vice president of said general council; and be it further

Resolved, That Chas. Bango is hereby chosen and elected as secretary of said general council, providing he is in position to accept and devote his time to the position.

RESOLUTION 6.

Whereas, Be it resolved by the general council of all the Chippewa Indians of Minnesota, held at Ball Club, Minn., on the 25th day of April, 1918, that two supervisors from Washington, D. C., be present at the next general council of all the Chippewa Indians of Minnesota, to be held at Bemidji, Minn., in July, 1918. One shall be selected by the Commissioner of Indian Affairs, and the other one shall be selected by the Board of Indian Commissioners.

On motion duly made and seconded and carried by unanimous vote of all delegates present, that the proceedings of this general council of all Chippewas of Minnesota be printed and copies furnished to all Congressmen, Senators, and the Department of the Interior.

On motion duly made and seconded, and carried by unanimous vote of all delegates (standing), an adjournment was taken and the council was closed by the chairman.

That said John G. Morrison, jr., as president, and Paul H. Beaulieu were advised of the action of said council in removing them from said office.

That thereafter, and on the 14th day of May, 1918, there was issued by James I. Coffey, president of the newly organized general council of Chippewa Indians of Minnesota, a call or notice of the sixth annual meeting of the general council of Chippewa Indians of Minnesota to be held at Bemidji beginning on the 9th day of July, 1918. That this notice designated the number of delegates that should be elected from each of the reservations; that thereafter elections were held on each reservation on the first Tuesday of June, 1918, at which time delegates were elected to attend said general council; that John G. Morrison, jr., persisted in continuing to act as president of the general council of Chippewa Indians of Minnesota and disregarded the action of the Chippewa Indians of Minnesota, represented by their chiefs and head men, and issued a notice of election of delegates and holding of the council at the same time and place as that named in the notices or calls issued by James I. Coffey; that said James I. Coffey, acting as president of said general council of Chippewa Indians of Minnesota, pursuant to the action taken at Ball Club provided the city hall of the city of Bemidji as the place of assembly for the delegates elected pursuant to his call; that previous to 9 a. m. of the 9th day of July, 1918, the delegates so elected pursuant to Mr. Coffey's call appeared at the city hall and called on the custodian for the key and were advised that the key, three days before, had been delivered to John G. Morrison, jr., but that they would locate him and have the hall opened up.

That said Coffey and delegates remained until 10.30 o'clock; that said city hall was not opened; that said John G. Morrison, jr., did not appear, and it is believed by the Indians that John G. Morrison, jr., had surreptitiously gotten the key to the building and prevented meeting of the delegates that were in attendance pursuant to the call of Mr. James I. Coffey; that after waiting from 9 a. m. until 10.30 a. m. the delegates adjourned from the city hall to the Elko Theater, in the city of Bemidji, and there held their general council of Chippewa Indians of Minnesota; that said council meeting was organized by electing a presiding officer and secretary, and such proceedings were had that a resolution was adopted confirming in every particular the action of the meeting previously held at Ball Club April 25, 1918.

That at said meeting there was also unanimously passed resolution No. 8, as follows: "*Be it resolved*, That the legislative committee obtain an act by the United States Congress for the appropriation of \$10,000 for the expenses of the delegates of the general council and for the expenses and compensation of the legislative committee for the year ending June 30, 1919. Said fund to be available until exhausted."

That there were present at the said meeting of the general council of Chippewa Indians of Minnesota 67 delegates from White Earth, 2 from Fond du Lac, 12 from

Winnibegoshish, 13 from Leech Lake, 4 from Cass Lake, 12 from White Oak Point, and 5 from Bois Fort or Nett Lake, or in all, 115 delegates. That said delegates of said general council were unanimous in their opposition to the efforts of the said John G. Morrison, jr., Ben L. Fairbanks, Paul H. Beaulieu, and others, to have them recognized as the representatives of the General Council of Chippewa Indians of Minnesota.

That after the said delegation had left the front of the city hall to go to the Elko Theater, John G. Morrison, jr., and others acting with him appeared at the city hall and held, what they claimed to be, a meeting of the general council of Chippewa Indians of Minnesota and pretended to elect officers and appoint committeemen the same as had been done by the other meeting held at the Elko Theater. That the general council held in the Elko Theater became known and is now usually referred to as Council of Chippewa Indians and the council meeting held at the city hall and presided over by John G. Morrison, jr., is usually referred to by the Chippewa Indian, as the council of mixed or half breeds. That in May, 1919, James I. Coffey, as president of the general council of Chippewa Indians, usually referred to as the council of Chippewa Indians, issued a notice or call for election of delegates and also of the annual general councils of Indians. That thereafter and on or about the 2d day of June, 1919, there was suggested by the Commissioner of Indian Affairs the advisability of taking some steps to illiminate the factional controversy between the so-called Chippewa Indians represented by James I. Coffey as their president and the so-called mixed bloods or half breeds represented by John G. Morrison, jr., as their presidents and it was suggested that the next general council should be held at Cass Lake, Minn. That while James I. Coffey, president of the council of Chippewa Indians, knew that such would be in violation of the laws of his organization, but yielded to the suggestion of the commissioner and thereafter there was issued an order or call, under the direction of the Commissioner of Indian Affairs, for a meeting to be held at Cass Lake in which it was suggested each faction should participate. That in reference to the meeting held on White Earth Reservation to elect delegates to such general council the rules and regulations of the general council of Chippewa Indians of Minnesota were not observed or followed in any particular. Nor was it held according to the customs of the Chippewa Indians upon their reservation.

That said meeting was packed and absolutely under control and domination of Ben L. Fairbanks and his associates and was not a fair election and the delegates selected were not the choice of the Chippewa Indians of that reservation. That said packing of said meeting and the control and domination thereof was protested against as being illegal, but without any avail or effect and thereupon 262 Indians arose in a body and left the meeting place and organized another meeting and selected 62 delegates to attend the meeting called for Cass Lake. That thereafter and on the 9th day of July, 1919, the delegates assembled at Cass Lake, were called to order by Walter F. Dickens, who had been designated by the Indian commissioner to conduct such meeting. That said action was in violation of the constitution, by-laws, and custom of the general council of Chippewa Indians of Minnesota. That the said Walter F. Dickens, acting as representative of the Indian commissioner, assumed unto himself the right to determine who were the qualified delegates from the different reservations and announced that fact and the result of his determination. That there were then present two delegations from White Earth each contending to be the duly elected and qualified delegates to that meeting. Delegates sitting in that meeting uncontested insisted upon the appointment of a committee on credentials and that the question of which of the contesting delegations from White Earth should be allowed to set at this meeting be submitted to it. This was in strict conformity with the by-laws adopted by the general council and recognized by the organization and Mr. Dickens presiding, refused to recognize the uncontested delegations and declared them out of order and refused to allow them to speak and announced that the delegates from White Earth represented by the Beaulieu and Fairbanks faction would be seated and ordered the rest to leave the room. Thereupon all of the contesting delegates as well as delegates from other reservations withdrew from that meeting place and proceeded to the city hall, adjoining there, and they organized with a chairman, secretary, and interpreter. That there were then present in the said meeting, at least 97 delegates that had withdrawn from the other meeting. That they proceeded to elect their officers, to pass resolutions and transact such business as pertained to the affairs of Chippewa Indians of Minnesota. That Benjamin Caswell, the gentleman who has appeared before your council for the Chippewa Indians of Minnesota, as its president, John Broker of White Earth Reservation as vice president were elected as was also an executive committee as provided for by its constitution and that this organization now represents over 80 per cent of the Chippewa Indians of Minnesota, and about 10 to 15 per cent of the so-called mixed bloods or half breeds. Your committee will recall that Mr. Frank H. Beaulieu in his statement to your committee the

other day said that when he was told by Mr. Dickens of the program of holding a joint meeting, that Dickens stated to him that the mixed bloods ought to be able to overpower the Chippewa Indians by marshaling a sufficient number of their friends. What followed this suggestion was in keeping with the political tricks of Tammany Hall, Chicago or St. Paul.

That at the opening of this hearing it was represented by Mr. Ballinger that he spoke for all of the Indians of Minnesota. This statement was made in the presence and hearing of Mr. B. L. Fairbanks and others supporting Mr. Ballinger. We know that Mr. Fairbanks, Mr. Morrison, Mr. Beaulieu, and others supporting Mr. Ballinger, and we believe that Mr. Ballinger well knew that on the 13th day of July, 1918, the delegates from the Red Lake Agency consisting of Nathan J. Head, who has appeared before your committee, Peter Sitting, John English, Joseph C. Roy, Peter Graves, who has also appeared before you, Pay she ge shig, Ah je dum o, Joseph Jourdain, O dah waunce, No din, and Kay gway dub e tung withdrew from said council then being held at Bemidji and addressed to them this communication:

RED LAKE INDIAN RESERVATION,
Red Lake, Minn., July 13, 1918.

To the GENERAL COUNCIL OF MINNESOTA,
Chippewas in session, Bemidji, Minn.

LADIES AND GENTLEMEN: This communication to your council now in session in the city of Bemidji, Minn., is to advise your council that the Red Lake Band of Chippewa Indians of the State of Minnesota, through their delegates of whom have signed this notice, that they have decided to sever their relations to your council and do not further recognize your said council as a medium for the transaction of their tribal matters and affairs before the Indian Department and the Congress of the United States. They without doubt having more confidence for justice and fair play from the Government than they would expect from your council, which is controlled by men who are fully competent as white men, and who seem to ignore the real conditions of lesser competent Indians of the different bands of the Minnesota Chippewas, and who have assumed to take advantage of the Red Lake Band by attempting to have Congress enact laws inconsistent to present laws enjoyed by the Red Lake Band. We, the undersigned, therefore, without any regret whatsoever for ourselves and in behalf of the Red Lake Band, have caused this to be a matter of written record for your information and that of the protector and refuge of the Red Lake Indians, the United States Government.

That the said Fairbanks and his associates and Mr. Ballinger well knew that on the 18th day of July, 1918, that there was held on the Red Lake Reservation a general council of Indians of the Red Lake band to consider matters involved and the action of the said John G. Morrison, jr., Fairbanks, and Beaulieu, and the withdrawal of that delegation of the general council of Chippewa Indians of Minnesota. That notwithstanding their knowledge of said action said John G. Morrison, jr., as president, Gus Beaulieu, as secretary, Ben Fairbanks, and others as other officers, and the said Webster Ballinger, have insisted that they are representatives of all the Chippewa Indians of Minnesota. That it must have occurred to your committee that these representations were made for the purpose of misleading it. That action is now pending in the district court for Itasca County, State of Minnesota, brought by John G. Morrison, jr., to determine whether the organization of which he claims to be the president or the organization of which Mr. Benjamin Caswell claims to be president shall be permitted to use the name of General Council of Chippewa Indians of Minnesota. That the Caswell organization is duly incorporated.

That in said action an answer was interposed on the 20th day of December, 1919, setting up all the facts relating to the organization of the general council of Chippewa Indians of Minnesota, of which Mr. Benjamin Caswell is president. That no reply has been served to their answer and all allegations remain admitted.

That the committee reprint of H. R. 12103, as now converted in the two bills, H. R. 12972 and H. R. 12973, are objectionable amongst other things as follows: Section 1 of H. R. 12973 is objectionable for the reason that it provides for the appointment of a commission, one of whom will be named by the so-called general council of Chippewa Indians of Minnesota. This bill was drafted by Mr. Ballinger and his associates, and they intend that their general council of Chippewa Indians of Minnesota shall be thus recognized and that they shall appoint one commissioner and that the general council of Chippewa Indians of Minnesota (Inc.), who represent more than one-half of the whole Indian population, shall have no representation. Relating to the appointment of that commission there are now from 200 to 500 persons seeking to be placed upon the rolls of the Chippewa Indians of Minnesota; many of these are not entitled to such enrollment. We charge the fact to be that the so-called Morrison general council will appoint members upon the enrollment committee favorable to

placing upon the rolls persons who are not entitled to be placed there and that such conduct is part of their present scheme and motive of their efforts, and it is in keeping with the manner in which the mixed bloods overflowed the White Earth Reservation and made possible the great Indian frauds there. Practically all of the 1,400 Indians on the Red Lake Reservation are absolutely against the Morrison, Fairbanks, and Beaulieu factions having anything to do with naming a member of the enrollment commission provided for in section 1.

Section 1 is also objectionable for the reason that it recognizes blood status as basis of classification as competent or incompetent mixed persons. The Chippewa Indians believe that there are many incompetent mixed bloods who should not be on the rolls of competents, and that they believe that there are some full-bloods that should be on the rolls of competents. They believe that the classification of competents and incompetents should not be based upon blood status, but should be based upon education, knowledge, judgment, competency, fitness, and environments. The Chippewa Indians fully believe that if section 1 is enacted into a law frauds and sharp practices will result in the loss to the Indians of three-fourths of the property that may be distributed to the Indians or mixed bloods under this section 1. The Morrison, Fairbanks, and Beaulieu faction have held out to the Indians that if this bill becomes a law they will receive large quantities of money. As the old Indian from Leech Lake who appeared before your commission was about to take the train at Federal Dam to come to Washington, a relative of Ben L. Fairbanks accosted him and urged him to support this legislation, for the reason that he would get a large amount of money. This may influence some of the Indians. Many of them understand, however, that getting money and keeping it are two different things. Instead of passing section 1 Congress should pass legislation providing for the purging of the present rolls of these illegal names thereon. It may be contended that the matter has been settled. We do not so understand either the decision of the Secretary of the Interior or the decision of the Court of Claims referred to by the council for the Morrison faction.

Section 2 is objectionable, among other things, for the reason that there are many Indians allotted in the neighborhood of the lands set apart as forest reserves, such Indians receiving an allotment of about 80 acres. The White Earth Indians receive allotments of 160 acres. It is proposed to give Red Lake Indians allotments of 160 acres. It is only fair to the Indian living in and adjoining to the forestry lands that if these lands are restored to the Indians those living in that locality who have received but 80 acres should be permitted to take of these lands an additional 80 allotment. This section of this bill would commit an outrage upon the Indian so situated. This is also objectionable for the reason that it recognizes the mixed bloods or half-breeds general council of Indians and permits it to designate appraisers to appraise lands that are to be sold which ought to be allotted to the neighboring Chippewas. This section is also objectionable for the reason that the terms are such as to invite speculators instead of actual settlers. The State of Minnesota sells adjoining lands on at least 20 years' time, with interest at 5 per cent or less, and the lumber companies sell their lands on 20 years' time, with interest at 5 per cent. Those who drafted this bill evidently had in mind creating by legislation conditions where many men could, to the exclusion of others, secure the cream of the Indian lands.

Section 3 is objectionable for the reason that there is no occasion for the conveyance by the Secretary of the Interior or by the general council of Chippewa Indians of Minnesota, as provided for in section 3 of H. R. 9924, of any lands now reserved or used for school purposes for the Indians. These lands that are reserved and not used should be sold or leased as other Indian property. These lands used for school purposes should certainly not be conveyed to the State. The Chippewa Indians whom I represent, as well as the Chippewa Indians of the Red Lake Reservation, are firm in their belief that they should, and they insist upon retaining the Indian schools at Leech Lake, White Earth, and Red Lake Reservations until conditions change and better schools are otherwise provided. The Indians I represent, as well as the Red Lake Indians, denounce as wrongdoers the persons who drafted section 3 of H. R. 9924, which provided that the general council of Chippewa Indians of Minnesota would be authorized to convey to the State of Minnesota property held by the United States Government in trust for the Chippewa people. We feel that the men who conceived this idea are worthy of a most complete condemnation.

Section 4 is a most objectionable provision. It applies to only the Leech Lake and Red Lake Reservations, as I understand it. Recently action was suggested to require the Indian Bureau to cancel the licenses or permits of the Chippewa Indian Trading Co., of which John G. Morrison, jr., is president, and B. L. Fairbanks to trade upon any portion of the Red Lake Reservation. As I understand it, the Chip-

pewa Trading Co. has permits for two stores, and Fairbanks the same. Many of the Red Lake Indians desire that they be removed from off the reservation. If this section 4 becomes a law, it will permit these people to acquire the lands upon which their buildings are now situated and ply their trade with the Chippewa people in utter defiance of any supervision, restraint, or control of the United States Government. In other words, if section 4 becomes a law, these traders can rob the Indians to the fullest extent possible and remain upon the reservation and defy the Government.

Section 5 is objectionable for the reason that it grants to the general council of Chippewa Indians of Minnesota the right to appoint one or two competent surveyors to survey and examine swamps or other lands with a view of securing evidence to be used before the Court of Claims. A great majority of the Chippewa Indians of Minnesota do not want the so-called general council of Chippewa Indians of Minnesota, headed by John G. Morrison, jr., to have anything to do with the Chippewa Indian affairs.

Passing now to H. R. 12972, sections 1, 2, 3, and 4 have been so rewritten as to be free of the principal objections that were held against similar sections in H. R. 9924, or the committee reprint. Section 5 confers jurisdiction upon the Court of Claims to entertain all and determine claims against the Red Lake Band of Chippewa Indians. The Red Lake Indian Reservation and the money held by the Government in trust for it is the fat lamb the wolves have in sight, and when I speak of the wolves, I have in mind these men now active in urging this legislation who were also active in connection with frauds against the Chippewa people on the White Earth Reservation. We repeat briefly what we said before, that under the treaty of 1855 all these Indian people now urging passage of this act, ceded, sold, and gave away all of their rights to the present diminished reservation. (See last part of sec. 1, treaty of Feb. 22, 1855.) The Nelson Act of 1899 expressly provided that the Red Lake Chippewa Indians reserved that portion of the Red Lake Reservation which, in the judgment of the commissioners, under their act of 1899 should be required for the purpose of allotting the Red Lake Indian. And the commissioners determined that the area found in the diminished Red Lake Indian Reservation was necessary for these purposes and the present diminished Indian Red Lake Reservation was reserved to the Red Lake Indians alone and no part of that has ever been ceded to the Government to be sold for the benefit of other Indians as contended by Mr. Ballinger. In addition to this, these Indians whom I represent and these mixed bloods whom I represent are absolutely opposed to any legislation which will permit the Morrison faction or anyone else instituting a suit in the Court of Claims or anywhere else against their brothers and their friends, the Red Lake Indians, with a view of taking from them one iota of property or one cent of money that is now and has been recognized as their own.

In conclusion, these Chippewa Indians and these persons of mixed bloods whom I represent and for whom I speak and whose rights I am endeavoring to preserve for them, denounce this whole scheme of this so-called General Council of Chippewa Indians of Minnesota proposed by John G. Morrison, jr., B. L. Fairbanks, Gus Beaulieu, and others as an attempt to commit more violent frauds and outrages upon the Chippewa Indians and thereby secure for themselves in the aggregation of one to two million dollars of the Chippewa property. Your committee is again reminded that should the decision of the case brought by John G. Morrison, jr., against the general council of Chippewa Indians of Minnesota (Inc.), result in a final decision against the John G. Morrison, jr., Beaulieu, and Fairbanks faction and in favor of the general council of Chippewa Indians of Minnesota (Inc.) of which Mr. Benjamin Caswell is president, this legislation which now may be said to recognize the Morrison, Beaulieu, Fairbanks council might be said to apply to the council represented by Mr. Benjamin Caswell. We then may be asked the question whether or not under this situation we would be opposed to this legislation and our reply is this: No legislation should be passed recognizing either faction under the circumstances that exist where the factions are diametrically opposed to each other upon principles that can not be compromised. If any is to be passed it may be such that will recognize the existence of these two factions and if possible give each recognition and representation to insure the protection of their rights.

The CHAIRMAN. Who is the next witness?

Mr. MERITT. Mr. Head, a Red Lake Indian, is here.

Mr. HENDERSON. I would rather have Mr. Graves heard first.

Mr. MERITT. Peter Graves, a Red Lake Indian, will now be heard.

Mr. HENDERSON. Mr. Chairman, on behalf of the Red Lake Indians whom I represent here, I ask the indulgence of the committee in the

hearing of these two witnesses who are all the witnesses that the Red Lake Indians will offer, and whose knowledge is extensive on this subject, but they may not be as fluent as some of the other witnesses, and I ask for just as much consideration as the committee can possibly give them so that there may be a full and clear portrayal of the attitude of the Red Lake Indians on this subject. As attorney for the Red Lake band, I will promise the committee to abstain from all remarks if necessary, and if I do have anything to say it will be very compact.

The CHAIRMAN. We have remaining 2 hours and 10 minutes to spend upon the debate on this question, and it is quite immaterial to the committee who it will hear during the balance of that time, and whatever time these two gentlemen take up, of course, will leave a balance that someone else will have the privilege of using, whomever you decide you want to wind up the argument.

Mr. MERITT. Mr. Chairman, we are very anxious to have Mr. Henderson make a legal argument on the question of the ownership of the Red Lake Reservation, and I hope that sufficient time will be given for that purpose.

The CHAIRMAN. Suppose we give Mr. Henderson the last hour. I am willing to discuss the question now of who shall use the last hour.

Mr. BALLINGER. The general counsel had less than two mornings; the other side have now had three days last week and this will be two more days, making five full days. We would like to have a little time in which to reply to all of this matter, and then take up the bill.

The CHAIRMAN. It is the intention of the committee to discuss this bill, and it hopes to have with it Mr. Ballinger and at least Mr. Meritt and perhaps Mr. Henderson, if he desires to be heard to-morrow, but it will be an executive session so that we can try to learn something about the proposed legislation ourselves, and use such information as we have received to assist us in that matter.

Mr. BALLINGER. Can't we have, then, three-quarters of an hour or an hour, this morning, in which to make any reply?

The CHAIRMAN. Suppose we divide the hour between Mr. Ballinger and Mr. Henderson, the hour from 12 to 1 o'clock, if Mr. Henderson wants that much time.

Mr. HENDERSON. I will try to accommodate myself to whatever the pleasure of the committee may be.

The CHAIRMAN. I thought we could get through with the other witnesses before 12 o'clock.

Mr. HENDERSON. We think, Mr. Chairman, that the value of the testimony of these witnesses is so much greater to the committee than any address that counsel might offer, that we prefer to have you hear them.

The CHAIRMAN. Then if there be no objection we will give Mr. Ballinger three-quarters of an hour and your side can have the balance of the time from now till a quarter after 12. Is that agreeable?

Mr. BALLINGER. That is agreeable.

STATEMENT OF MR. PETER GRAVES, A RED LAKE INDIAN.

The CHAIRMAN. Now, Mr. Graves, you are a Red Lake Indian?

Mr. GRAVES. Yes, sir.

The CHAIRMAN. And what degree of blood are you?

Mr. GRAVES. I am about half white and half Indian.

The CHAIRMAN. And you have resided up there on the Red Lake Reservation?

Mr. GRAVES. Yes, sir; I was born and raised there.

The CHAIRMAN. And are you a regularly elected delegate of the Red Lake Band?

Mr. GRAVES. Yes, sir.

The CHAIRMAN. Here to represent them?

Mr. GRAVES. Yes, sir.

The CHAIRMAN. And speak for them with authority?

Mr. GRAVES. Yes, sir; but we had so much respect for the Indian Office is the reason that I am alone here, because Mr. Meritt has told our Indians that one would be sufficient to represent the Red Lake Indians here; but Mr. Head, here, came of his accord and arrived here a short time ago, because he thought that I should be accompanied here by some Red Lake Indian.

The CHAIRMAN. I think that is a reasonable qualification as the representative, and you can go ahead with your statement.

Mr. GRAVES. Resolution No. 3 of the council proceedings of December 1, 1919, was the time I was designated to act for and in behalf of the Red Lake general council. They gave me authority to approach and consult Congressmen and the officials of the department pertaining to their matters, tribal matters. I am sorry to say that I never took advantage to go and see Congressmen as I should, to justify my duties towards the Red Lake Indians, for the reason that I am very backward about taking the time of the Congressmen. That is the only reason, and what I have to say here will be entirely strange as to what has been told them by the professional lobbyists, these white Indians of White Earth Reservation. They have become professional lobbyists, as everybody knows, among the Congressmen, and they pump the Congressmen full of their contention and misrepresenting the majority wish of these Indians in Minnesota, because those Indians in Minnesota are unable to present their side to the proper parties. They are unable to be heard.

There is a matter right here—if there was a direct question put to them as to what they believe—to the contention between the Red Lake Indians as to the ownership of the Red Lake Reservation and the other Minnesota Chippewas, I believe that they would say they understood that the Red Lake Indians reserved their diminished reservation for themselves and their children, and that is just the way that the Red Lake Indians look at it to-day, because why? When the commissioners offered the act of 1889 they refused it. They told the commission that their mission was a failure. The commission wanted to succeed in their mission, of course, and we in talking around, as I have been told—although I am a signer, one of signers of that act, but I was here in Philadelphia going to school at that time. I don't know who signed it for me, but my name appears there as being present.

The CHAIRMAN. By that you mean that you did not sign it yourself?

Mr. GRAVES. I did not sign it, but somebody signed it for me. That is the idea, because I could not have signed it, because I was attending school in Philadelphia at that time.

The CHAIRMAN. How old were you at that time?

Mr. GRAVES. I was down on the census as 19 years old at that time; the church records show that I was 16 at that time.

Well, the commissioners then got around and made the Red Lake Indians believe that they could have that diminished reservation exclusive of the Chippewas of Minnesota. Having so much vast area over and above the balance of the Minnesota Chippewas, they could cede that, and what they ceded outside of this diminished reservation would go into the common fund, but that this reservation would be held as theirs exclusively. That is what the Indians were made to understand by this commission.

When Maj. McLaughlin went to negotiate a treaty with them in 1902 the Indians said that anyone that would go to Maj. McLaughlin and talk about allotments would be killed right there. That is the feeling that those Indians had against allotments. I told Maj. McLaughlin at that time what I heard in the progress of these agreements. I said to Maj. McLaughlin: "I expect some day, if I live long enough, that I will probably be an allottee, because the Government won't leave these Red Lake Indians alone until they are allotted." I said to him: "Can't you put in this agreement here to give me 160 acres if I should live out the time, instead of getting 80 acres?" And he saw the contention of those Indians, and that is the reason in that section 4 he put that so clearly that the other Indians would not have any right in that diminished reservation. And we do claim, and I agree with the Indians—I agree with the Indians of Red Lake that they are right in their contention after ceding such a vast area to be enjoyed in common right with the Minnesota Chippewas, why should they have ceded every foot of it, they not being present at that council, but I do believe that their contention that they were made to believe that this diminished reservation was to be held in common by them.

The CHAIRMAN. Now let me ask you a question right there. You are a very intelligent Red Lake Indian. There is no question about that. Now you claim that the Red Lake Indians are entitled to all of the benefits of that diminished reservation?

Mr. GRAVES. Yes, sir; exactly.

The CHAIRMAN. And that you are also entitled to participate in the general funds of the Chippewas from all other sources?

Mr. GRAVES. Yes, sir.

The CHAIRMAN. Now, go ahead.

Mr. GRAVES. We do not begrudge what we have ceded in common; we do not begrudge that. We have no claims on that, but we do claim what the commission made the Indians believe. We were members of this general council two years ago and we wanted the general council to assume the same attitude that the real Indians assumed at that time toward the Red Lake Indians pertaining to their diminished reservation, but the boss Indian politicians, Ben Fairbanks and John G. Morrison, refused to entertain any proposition from the Red Lake Indians. So we voted from that council and we took the business through that council and we don't want to do

business through that council. What we want is what belongs to the Red Lake Indians as they understood in the negotiations of the commission that they had the authority to negotiate with the Red Lake Indians as it pertains to the act of 1889. The Red Lake Indians are scared to death and in terror to-day on account of this general council of the Minnesota Chippewas, because it is being controlled by white Indians, merchants, and lawyers. Who is able among the Red Lake Indians to start up against these men? No one is.

Mr. KELLY. Let me ask you right there, you referred to the act of 1889.

Mr. GRAVES. Yes, sir.

Mr. KELLY. And as I read that act of 1889 it clearly says that this commission shall have power to reserve in the Red Lake Reservation sufficient lands to provide allotments for the Red Lake Indians under the general allotment act of 1887. Now, suppose that commission had reserved only 300,000 acres instead of 700,000; then would you have a claim for more than 300,000, or would you have admitted that they had a right to make it 300,000?

Mr. GRAVES. The real Indians understood the commission to say that the next generation might want to take allotments, but in 50 years from now those that would be living at that time should be willing to take allotments, if we had so much in the diminished reservation. The White Earth allotment rolls were open for about 10 years, you see, and if we ever want to take allotments on the diminished reservation, which generation might want to, then we would use that for our allotments.

Mr. KELLY. The point I was trying to make was this, that the commissioners simply selected 700,000 acres, so that every Red Lake Indian would get his due allotment, and then the rest of it would be disposed of.

Mr. GRAVES. The commissioners had to give the Red Lake Indians the boundaries that they had marked out on the paper as what they wanted to reserve. It was not up to the commission; the law gave them that, but the Red Lake Indians didn't want allotments; they wanted to reserve the reservation that they are to hold in common, and they defined the lands themselves.

Mr. KELLY. Well, the law gave no such authority.

Mr. GRAVES. No, I guess not.

Mr. KELLY. The act of 1889 clearly says that the Red Lake Indians shall be allotted the same as other Indians and not on a two-thirds agreement of the Red Lakes, but on a two-thirds agreement of all the Chippewas. So the law don't give that authority.

Mr. GRAVES. Yes, but you want to understand that the Red Lake Indians when the act was read to them they told the commission, "Your mission is a failure;" but the commission didn't want to be treated that way. The commission, you must understand, were very able men. One of them was a bishop, and I guess the other one was a doctor, and Mr. Rice was a governor at one time of Minnesota.

Mr. KELLY. Do you claim that the Red Lakes never accepted the act of 1889?

Mr. GRAVES. They accepted the act of 1889 as it was made—as it was told, as far as their diminished reservation was concerned.

The CHAIRMAN. He maintains they understood that they were to have and to hold forever for themselves this diminished reservation, even under the act of 1889.

Mr. KELLY. The commissioners gave that explanation when they went up there?

Mr. GRAVES. The commissioners made the Red Lake Indians believe that that diminished reservation was theirs exclusively.

Mr. KELLY. That is a clear statement.

The CHAIRMAN. Now, unless you have something further of a particular nature which you desire to say, it seems to me you have made all the statement that is necessary. I can't understand what further you would have.

Mr. GRAVES. I haven't got started yet. If you want to cut me off—

The CHAIRMAN (interposing). No, I don't want to shut you off; I think you have made a splendid exhibition here, and you have given us a lot of information. You have made, to the chairman's idea, the potent statement of this whole proposition, so far as the Red Lake Indians are concerned, and I don't see how you can make the situation any clearer than you have by an extended statement—by any further extensive remarks. You can go ahead if you desire.

Mr. KELLY. In this report of the commissioners that went out under the act of 1889, as submitted by the Congress at that time, the statement is clearly made that in this diminished reservation of 700,000 acres they took more than would be needed by the Red Lake Indians for this reason—this is their statement: "This larger than they will eventually require, but as there are swamps and other untillable lands therein it can not be reduced until after survey and allotments shall be made."

Now, that clearly was the idea of the commission, that they would reserve enough, including swamps as untillable lands, to make allotments, and then they would dispose of the rest of it.

Mr. GRAVES. Well, they were very smart men, as I say. That can run for two or three hundred years if you want it. He told the Indians in 50 years he expected that they would be in a condition advanced enough in the white man's civilization for them to be allotted. To-day they say they are not far enough advanced to be allotted. They have seen what is going on in Minnesota. They have seen these land frauds. They are experienced. They hear, and when an Indian hears anything he takes it to be a fact, whether it is true or not. But I think the land frauds at White Earth can be proven that they are correct.

Mr. HERNANDEZ. So then the Red Lake Indians contend that they should not be allotted yet?

Mr. GRAVES. Until they say that they want to take their allotments.

Mr. HERNANDEZ. Well, couldn't they be allotted, whether they are competent or not? They don't have to dispose of their lands because they are allotted. They can be held in trust by the Department of the Interior through the Indian Office indefinitely if they want to. We can provide for that. They ought to be allotted, in my opinion, and this matter cleared up. That has been the trouble, that they have been legislating too much on this matter.

Mr. GRAVES. Well, the only legislation we have since the act of 1889 was the agreement made by Maj. McLaughlin with those Indians there. That is the only legislation. Of course the Government had to get part of that reservation for forest reserve by that rider in the appropriation bill in 1916.

Mr. HERNANDEZ. The forest reserve is all right, I suppose, but I hold that outside of the forest reserve there is enough land there right now to allot everyone of the Red Lakers. Is that so?

Mr. GRAVES. Well, when the Indians want to take allotments I expect they will want the forest reserve, if they haven't enough other lands. That is the Red Lake Indian forest there.

Mr. HERNANDEZ. Well, that is all right if it is there. That is for Congress to decide.

Mr. GRAVES. Of course it is Congress, but the Red Lake Indians have the right by occupancy. But I am not a lawyer but I want to explain a few things here.

The CHAIRMAN. I want to ask you a question here. There have been several reasons given by other witnesses as to why the Red Lake Indians have not been allotted. Now for 31 years the bureau has had the right under the law of 1889 to allot that Red Lake territory.

Mr. KELLY. Not only the right, Mr. Chairman, but the duty.

The CHAIRMAN. But the duty. What reason do you give as to why there have been no allotments made up there?

Mr. GRAVES. The commission that negotiated the act in 1889 made those Indians believe they didn't have to make allotments until they wanted to. Now that is the whole substance as they understood it. Now it is up to those Indians, you see, and the department knows that the Red Lake Indians don't want to take allotments at this time, up to this time.

The CHAIRMAN. Then you think the department has been guided wholly by the wish of the Red Lake Indians?

Mr. GRAVES. Certainly. They ought to be advised on that.

The CHAIRMAN. Well, there have been other reasons given for the lack of having made allotments up there.

Mr. GRAVES. You can give all kinds of reasons, but that is the true reason, that the Red Lake Indians don't want to take allotments, and the allotments are not to be enforced on them without their consent. They have there in their council proceedings that whenever one wants to allot those Indians, they must consult them first.

The CHAIRMAN. But there is nothing in the law which makes any such provision as that.

Mr. GRAVES. No, it is not in the law but the Red Lake Indians believe they have something to say about it.

The CHAIRMAN. Then the committee is to understand you to say that up to this time the Red Lake Indians have not desired allotments?

Mr. GRAVES. No, they haven't desired allotments.

Mr. RHODES. And they don't desire them now?

Mr. GRAVES. They don't desire them now.

Mr. RHODES. And you think the department has done right in not making allotments?

Mr. GRAVES. Well, according to the wish of the Indians, of course, they did right.

The CHAIRMAN. Proceed with your argument, Mr. Graves.

Mr. GRAVES. Now in this bill—I have read some of it, but, of course, I am not a lawyer nor do I pretend that my interpretation of any act is the correct interpretation. This bill, especially the first features of it, as introduced by Ellsworth and Knutson, is a well-studied bill by certain interests. That is the best I can say for that.

The CHAIRMAN. Do you mean “by certain interests,” or “for certain interests?”

Mr. GRAVES. By certain interests. Whoever is the author of that bill wants to take the government of the Minnesota Chippewas away from the Indians, really, and administer it themselves.

Mr. RHODES. Then would you say those provisions were drawn in the interests of the Indians or against the interests of the Indians?

Mr. GRAVES. Against the interests of the Indians, because the Indian Bureau is trying to educate those Indians there under the act of 1889, which is absolutely correct. These Indians here, where I am from, are not able to properly clothe nor feed their children, and therefore, at this time, the day boarding school is the school for the Indian children to-day, and the Indian Bureau knows that.

Mr. RHODES. Who is in the majority, those who want these lands allotted or those who are opposed to allotments?

Mr. GRAVES. On the Red Lake Reservation?

Mr. RHODES. Yes.

Mr. GRAVES. The majority is those that are opposed to allotments.

Mr. RHODES. I do not want to interrupt the proceedings. Go ahead.

Mr. GRAVES. Since we left this council, and the authors of these bills, gentlemen of the committee, if these bills are going to be passed we want to be left entirely out—that is, as far as the Red Lake diminished reservation is concerned. We don't claim anything more to what was ceded, and that the Red Lake Indians ceded and that that was to go for the common interest of the Minnesota Chippewas. Out of approximately 3,200,000 acres on the Red Lake Reservation at that time there was two and a half millions of that ceded to be turned into cash for the benefit of all the Minnesota Chippewas. The other Indians approximately had 1,400,000 acres out of that, that were allotted out of that, which left them approximately 700,000 acres to 2,500,000 acres of the Red Lake Indians—700,000 acres by the other Indians and about 2,500,000 acres by the Red Lake Indians.

Mr. KELLY. Right there, Mr. Graves, the act of 1889 applied to all the different tribes the same, did it not?

Mr. GRAVES. The act of 1889 was drafted right here in Washington.

Mr. KELLY. And for the purpose of dealing with the entire Chippewa question?

Mr. GRAVES. For that purpose, because the strongest argument was some years back it was a common territory for all of the Chippewa nations, but the act of 1864 defined the Red Lake Reservation, and you can't take—no matter how much argument you might put on what happened a thousand years ago, that act of 1864 is law and is binding on the Red Lake Indians as well as the Government.

Mr. KELLY. The act of 1889 was after that time, of course.

Mr. GRAVES. Yes, of course, that is subsequent.

Mr. KELLY. Here is the point I want to get at: The act of 1889 applied to all the tribes, and it absolutely compelled allotment of White Earth and the other reservation, and the Government went ahead and allotted arbitrarily the Indians. Now didn't that apply also to the Red Lakers and shouldn't they have been allotted at the same time as the other Indians on the other reservations?

Mr. GRAVES. Well, that is exactly it, if you do not know what happened there at Red Lake in making the agreement with those Indians.

Mr. KELLY. The agreement can't overthrow the law.

Mr. GRAVES. Well, now, of course if we want to get down to that, you might as well say the Red Lake Indians never consented to that treaty.

Mr. HERNANDEZ. But as a matter of fact they did.

Mr. GRAVES. The Red Lake Indians wanted to put in something there that they wanted. They were not going to accept the face of the act itself.

Mr. HERNANDEZ. But they did ratify and indorse the act.

Mr. GRAVES. They did, after the promise that they would own that diminished reservation exclusively.

Mr. RHODES. Mr. Kelly, does that act of 1889 make its provisions in any subject to ratification of the tribe?

Mr. KELLY. It does to this extent: It provides that the allotments shall be made on all the other reservations after an agreement has been entered into by two-thirds of the adult males, but the Red Lake Indians must be obliged to accept the allotment by a vote of two-thirds of the Chippewas, which shows that Congress clearly understood there might be some objection up there, was willing for the sake of justice to take it out of the hands of the Red Lakers and put it in the hands of the Chippewas; so two-thirds of all the Chippewas covered the Red Lakes.

Mr. RHODES. Your views of the matter and construction of that statute—are you certain that the act is conclusive as to the intention of Congress to allot these lands to the Red Lake Indians?

Mr. KELLY. There can be no doubt whatever that Congress intended to allot those lands and required this commission to allot them before any lands could be sold.

Mr. RHODES. And as a matter of fact the department has not allotted them?

Mr. KELLY. It has not carried out the act.

Mr. RHODES. Now that is your view of the matter. I would like to ask Mr. Meritt at this juncture if the reason the department has not allotted these lands was due to—well, I will say to what was the failure of the department to allot these lands due? I ask that in order to define the issue right here, without rambling on around over a whole lot of foreign territory.

Mr. MERITT. I thought we had already made perfectly clear the reasons why we have not made allotments on the Red Lake Reservation, and those reasons are concisely as follows: The Red Lake Indians themselves do not want allotments.

The CHAIRMAN. But, Mr. Meritt, this statement from this witness is the first time that the statement has been brought out in this testimony.

Mr. MERITT. No, sir; I made that statement in my own testimony.

The CHAIRMAN. I do not remember having heard anyone say that was on account of the Red Lake Indians not wanting allotments.

Mr. MERITT. The Red Lake Indians have protested against allotments, and the records of our office will so show.

Mr. RHODES. We accept that, Mr. Meritt, as being true. Was the reason of their protest the moving cause which was responsible for the department's not making the allotment, or did it have anything to do with your failure to allot?

Mr. MERITT. That was one of the moving causes.

Mr. RHODES. Do you recognize that the law gives them the option to accept or reject the treaty? I mean the act?

Mr. MERITT. The law leaves it within the discretion of the Secretary of the Interior when those allotments shall be made. The law does not say that the allotments shall be made within a certain period.

Mr. RHODES. Then you do not agree with the statement that Mr. Kelly has made, that it was conclusive and binding, and the time was fixed?

Mr. MERITT. I do not, and I stated further in my testimony that the other reasons why we have not made allotments, besides the objections of the Indians on the Red Lake Reservation, are these: That it is absolutely impossible at this time under present conditions to allot lands on the Red Lake Reservation and divide the property equitably, for the reason that part of that land is covered by timber of very great value; part of the land is now swamp land and needs to be drained, and before we can make equitable and just allotments on that reservation it will be necessary to sell the timber and use part of the proceeds from the sale of the timber in draining the lands, and that can be done at a cost of less than \$3 an acre, according to the reports of the War Department.

Mr. KELLY. I think it is only fair to say, in view of that statement that the answer of Mr. Meritt's boiled down means that the Indian Bureau understands that it knows better how to deal with these Indians than Congress does and that when Congress lays down a definite policy, the Indian Bureau claims the right to change that policy, if it believes in its wisdom that the policy is not conducive to the best interests of the Indians.

Mr. RHODES. Now let us see—there should be no argument between any member of the committee and Mr. Meritt or the gentleman speaking—is the language of that act so indefinite and so uncertain that it can not be seen what the intention of Congress is?

Mr. KELLY. It is not.

Mr. RHODES. I thought it was very definite and very certain.

Mr. HERNANDEZ. My understanding is that it is very definite.

The CHAIRMAN. We have the act here, and let us read that section which deals with that question of allotments.

Mr. MERITT. The law is found in section 3 of the act of January 14, 1889.

Mr. KELLY. In section 1—now let me read definitely the distinction made between the Red Lake Indians and these other reservations. The act provides for the appointment of a commission whose duty it shall be as soon as practicable after their appointment to negotiate with all the different bands or tribes of Chippewa Indians in the State of Minnesota for the complete cession and relinquishment in

writing of all their title and interest in and to all the reservation of said Indians in the State of Minnesota, except the White Earth and Red Lake Reservations, and to all and so much of these two reservations as in the judgment of said commission is not required to make and fill the allotments required by this act and existing acts.

It is clear and clean. Now it goes no further and says that after the Red Lake Reservation:

This agreement, if made and assented to by two-thirds of the male adults over 18 years of age, of the band or tribe of Indians occupying and belonging to such reservation, and as to the Red Lake Reservation, the cession and relinquishment shall be deemed sufficient, if made and assented to in like manner by two-thirds of the male adults of all the Chippewa Indians in Minnesota.

That is the only distinction made in the act between Red Lake and the other reservations.

The CHAIRMAN. Now let us consider, then, for just a moment: I understand the witness to say that they never did by two-thirds or any other number ratify that agreement, and therefore——

Mr. KELLY (interposing). No; they did ratify it.

The CHAIRMAN. I understand him to say that they did not; that they advised the commission immediately that they would have nothing to do with it.

Mr. GRAVES. No; they signed the proviso.

The CHAIRMAN. They did ratify it?

Mr. GRAVES. They thought they were not ratifying that act; they thought the commission had authority to promise them they would hold that diminished reservation for their exclusive benefit.

Mr. MERITT. They ratified the act, Mr. Chairman, with the understanding that the Red Lake Reservation was to belong to the Red Lake Indians as promised at that time, as shown by the testimony and the records.

Mr. RHODES. Is there anything in the records to show this reservation you speak of?

Mr. MERITT. Yes, sir.

Mr. RHODES. Does the department recognize that as a legal and binding obligation?

Mr. MERITT. We do. Congress has entered into a solemn agreement that the Red Lake Reservation shall belong to the Red Lake Indians exclusively. It has also enacted legislation which clearly shows that it was the intention of Congress that the Red Lake Reservation should belong to the Red Lake Indians. Some people seem very particular about certain agreements made with Indians and not so particular about other agreements made with Indians. Now, we contend that Congress has clearly recognized the Red Lake Reservation as belonging to all of the Red Lake Indians; and that none of that reservation belongs to any other Indians.

Mr. RHODES. But that doesn't hardly go to the question of this allotment and the disposition of the lands by allotment, does it? I don't think it is disputed but that it is their property, but it is more a question as to whether the lands should be held for the tribe as a whole, unallotted, or whether it should be allotted.

The CHAIRMAN. Now, what I started in to clear up was—I am satisfied I have gotten that. Now here is this agreement——

Mr. KELLY (interposing). Section 3 goes on to provide about this allotment:

That as soon as a census has been taken and the cession and relinquishment has been obtained, approved, and ratified as specified in section 1, all of said Chippewa Indians in the State of Minnesota, except those on the Red Lake Reservation, shall, under direction of the said commissioners, be removed to and take up their residence on the White Earth Reservation, and thereafter, as soon as practical, shall, under the direction of said commissioners, be allotted lands in severalty to the Red Lake Indians on Red Lake Reservation, and to all the other of said Indians on White Earth Reservation in conformity with the act of February 8, 1887, entitled "An act for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the territories over the Indians, and for other purposes."

Now, one part of that act was carried out; all the other Indians were arbitrarily allotted; the Red Lake Indians were not allotted and have not been allotted to this day.

Mr. MERITT. And you will notice, Mr. Chairman and gentlemen of the committee, that the law specifically says "As soon as practicable." It is absolutely impracticable to allot the Red Lake Reservation at this time and divide up the property equitably. The law is perfectly clear on that point.

Mr. KELLY. It says: "As soon as practicable"—as soon as practicable after the commission appointed to make the investigation.

Mr. MERITT. It is absolutely impracticable to allot that reservation at this time, and it will be impracticable to allot the reservation until the timber on the reservation is sold, and until the wet lands are drained. We are now in the process of doing that very thing, of selling the timber, and a bill is before Congress to drain the lands. As soon as we sell the timber and drain the lands we will allot the reservation and not before, unless we have specific authority from Congress directing that it be done, and I do not believe that Congress will give that specific direction with the correct information before it as to the conditions existing on that reservation.

Mr. KELLY. Well, is it contemplated that 31 years after an act is passed, that that is included in the words "as soon as practicable?"

Mr. MERITT. That leaves it to the discretion of the Secretary of the Interior when it is practicable and the Secretary of the Interior, exercising that discretion, has not yet recognized that it was practicable to allot that reservation, and it will not be practicable until the timber is sold and the lands are drained.

Mr. KELLY. That is the point exactly. The Indian bureau does not think it practicable and it may not be for 50 years yet.

Mr. MERITT. We think it will be practicable as soon as the timber is sold and the lands are drained, and it will not be practicable until that time.

Mr. RHODES. Is that the last act of Congress providing for the allotment of the Red Lake lands?

Mr. MERITT. No, sir; there is a provision in the act of 1904.

Mr. RHODES. That is what I was thinking.

Mr. MERITT. In regard to allotments.

Mr. RHODES. Is that directory?

Mr. MERITT. No, sir; that is discretionary, the same as the act of 1889.

Mr. RHODES. In what way does the act of 1904 conflict with the act that Mr. Kelly has cited?

Mr. MERITT. The act of 1904 does not conflict with the act of 1889 so far as the allotments are concerned, but it does specifically recog-

nize that the Red Lake Reservation belongs exclusively to the Red Lake Indians.

Mr. RHODES. Then the act of 1904 does not relate to the question of allotments?

Mr. MERITT. I will read the language contained in the act of 1904.

Mr. RHODES. What I am getting at is that it is not an abrogation or repeal of the former act?

Mr. MERITT. It does not.

The CHAIRMAN. Well, I will say for the benefit of Mr. Graves that we have consumed a good part of his time on something that is entirely foreign to what he probably wants to say to us.

Mr. MERITT. The act of 1904 contains this provision:

ARTICLE 4. It is further agreed that the said Indians belonging on the said Red Lake Indian Reservation in Minnesota, shall possess their diminished reservation independently of all other bands of the Chippewa Tribe of Indians, and shall be entitled to allotments thereon of 160 acres each of either agricultural or pine lands, the different classes of land to be apportioned as equitably as possible among the allottees.

The CHAIRMAN. The principal thing that this act did was to authorize the allotment of 160 acres instead of 80 acres.

Mr. MERITT. And also it recognizes specifically that the Red Lake Reservation belongs exclusively to the Red Lake Indians.

The CHAIRMAN. Yes. It would seem at this time to be diametrically opposed to the legislation of 1889.

Mr. MERITT. Not diametrically opposed, when we take into consideration what was said to the Red Lake Indians by the commissioners in 1889.

The CHAIRMAN. Yes, sir. I am speaking of the language of the law, though. Now, Mr. Graves, you can proceed if you can get the opportunity.

Mr. GRAVES. As soon as practicable would be interpreted by the Red Lake Indians to be when they are willing to accept allotments. And I do not wish to convey the belief to the committee that the Red Lake Indians are not going to take allotments; they are going to take them some day. There is no question about that, but you leave them alone; they are going on the promises of the commission as I have stated. The law can be interpreted differently altogether, but that same law was interpreted to them and they sent the commission away and told them they didn't want anything to do with that. When the poor, old ignorant Indian, the defenseless Indian, was promised that what little reservation he would reserve after ceding all of his lands, he would not be molested in, but when he was ready he could take allotments, and if the Government wants to be honest with those Indians they must certainly—they ought to wait until those Indians wish for allotments.

I took this matter up for the Red Lake Indians, but I know I can't do them justice, because I am not an orator or anything of that kind. I can't do them justice. As I said, I don't go to the Congressmen because I am backward. I don't like to go and tell the Congressman, and he may think that I am stuffing him with something that is not true, just like he has been stuffed right along.

Mr. KELLY. This committee has only one purpose, Mr. Graves, and that is to do justice. We want to get the facts.

Mr. GRAVES. Then you want to do justice to the Red Lake Indians.

The CHAIRMAN. Well, we are listening to you to see if we can be convinced that you have not had justice up to this time.

Mr. GRAVES. Now in that bill, of course, anything that pertains to the Red Lake Indians wants to be stricken out of the bill, and the Red Lake Indians will be satisfied with no other. We don't want a townsite on Red Lake. They will agree to anything like that when they want a town site whenever there is one necessary. There is a town there called Red Lake, and if anybody wants to go to the town he can go there. It is only 5 miles from the agency. But that the town site is not the wish of the Red Lake Indians; it is the wish of the White Earth Indians that are traders there, and they run the politics there at Red Lake—that is, they attempt to do so. I don't know how they are going to pan out after this. They were good friends of mine one day, but as soon as I saw the advantage they wanted to take was for their own interest, I departed, and I promised those Red Lake Indians that I would see that they got justice if they could ever get justice as to what they are entitled to as conveyed to them by the commissioner after they had rejected the act of 1889.

The CHAIRMAN. The Red Lake Indians, as I understand your statement here, have no confidence whatever and do not recognize in any way the council which has been recognized by the bureau to operate for the Red Lake Indians in any way. Is that correct?

Mr. GRAVES. Yes, sir; that is correct. They don't have anything to do with that general council at all.

The CHAIRMAN. Now, as you say, you are a modest man, but I think you are making a very clean statement here and are a friendly representative of the Red Lake Indians, and this is a very complex question regarding all of the Chippewa Indians, and I want to ask you if you, as a representative of the people, believe that the Red Lake Indians as a whole are in sympathy with the administration of their affairs by the bureau and are satisfied, wholly satisfied, with the distribution of money and their activities up there in that community?

Mr. GRAVES. Yes, sir. We would rather have the Government look after our affairs.

The CHAIRMAN. That is not the point. It is not a question of whom you would rather have; I am asking you if you are satisfied and content with the situation as it exists?

Mr. GRAVES. Why, yes; in open council the Red Lake Indian Council has called on the Government to protect them through the Indian Bureau.

The CHAIRMAN. And the Indian Bureau has done that to your entire satisfaction?

Mr. GRAVES. To our entire satisfaction? Well, of course, you never can be entirely satisfied. That is out of the question.

The CHAIRMAN. Can you state any particular reason why you are not satisfied with the management of affairs by the Indian Bureau as it exists to-day? Now, you say you are not wholly satisfied; tell us something with which you are not satisfied.

Mr. GRAVES. Well, if I state here that I am satisfied, probably somebody else is not.

The CHAIRMAN. You are speaking now for the Red Lake Band?

Mr. GRAVES. Yes; we are satisfied. We want the Indian Bureau to control our affairs until such time as the Red Lake Indian himself would want otherwise. We want the Government to protect the Red

Lake Indian from the same frauds that were committed at White Earth on the White Earth allotment. If you know the real condition of those White Earth Indians, it would be astonishing to you gentlemen; it would be astonishing to you. We don't know the real conditions there.

Mr. KELLY. I have read that in former hearings of the investigation, and it was very deplorable.

Mr. GRAVES. When an Indian applies for a fee patent on his land, why does he apply for that fee patent? Does he apply just to have the privilege of paying taxes? My experience has been altogether different all the time. When an Indian calls for a fee patent he generally wants to sell it and get what money he can out of it every time.

Mr. KELLY. Has the Indian no desire whatever to be considered a free citizen and willing to pay taxes for that privilege, or does he always want to be in the position of a ward with the Indian Bureau forever guiding his destinies?

Mr. GRAVES. If you were an Indian you might be on paper a ward, but you don't have to stay on the reservation. I have got one boy that is working in the steel plant in Duluth. All that Mr. Ballinger was crying about here when he was telling you that these Indians were penned up on the reservation is not so. I can get out here and get a position and I wouldn't have to go back on the reservation, and then, at the same time, I wouldn't lose my rights either.

Mr. KELLY. What is your boy now, for instance? Is he a citizen, declared competent with the rights of American citizenship?

Mr. GRAVES. I don't know what he is doing there. He proclaims his job to be a white man or something else, but he is there working just the same as anybody else, and I don't know but what he might be a voter, but he hasn't got any right to vote, but he can pass for a voter just the same if he wants to.

Mr. KELLY. I don't mean to claim, of course, that he is a white man, but I want to know if he is an American citizen with the rights of citizenship; the right to vote and pay taxes.

The CHAIRMAN. Has he been declared a citizen?

Mr. GRAVES. No; he has no allotment. He is unallotted.

Mr. KELLY. Well, I was wanting to know if he would not desire to be a citizen and whether the other Indians on Red Lake do not have any desire at all to be American citizens.

Mr. GRAVES. Well, that is too deep a question for them at that.

The CHAIRMAN. Now, as I understand, your whole argument it is that you, as a representative of the Red Lake Indians, are absolutely opposed to this legislation in any form in so far as it affects in any way the Red Lake Band of Indians?

Mr. GRAVES. Certainly. If we want segregation and let the 50-year period begin at the time the other Indians—at the time the allotment rolls were closed—say that the allotment closed 31 years ago, then they have got only 19 years yet before that 50-year period is up. But we will be allotted as soon as practicable, and that is when we want the allotments. Then there is plenty of allotments to take care of the Red Lake Indians after their allotments.

The CHAIRMAN. It seems to me that some one up there has had sense enough, or been able to get somebody who has had sense enough to protect the interests of the Red Lake Indians quite satisfactorily up to the present time.

Mr. MERITT. And the Indian Bureau has been doing it.

The CHAIRMAN. Well, whoever has done it. Now if you have anything further to say, you can proceed.

Mr. GRAVES. Well, I don't know whether I should say anything more or not. I don't like to make any personal attacks more than I can help. When Mr. Elston was chairman, I didn't get any more than into the hallway when Mr. Beaulieu there gave me a tongue lashing, and Mr. Ballinger at the Interior Building just as soon as I met him, and John Arten—they believe I am easily scared, and they wanted to take advantage of me. Of course I had my ideas too. I don't like to get down to that.

The CHAIRMAN. Well, you have permission to go ahead.

Mr. HERNANDEZ. The act of 1904 which empowers the Indian Office to sell part of the Red Lake Reservation was never ratified by your tribe, was it?

Mr. GRAVES. Well, the original agreement was ratified by the Indians, but Uncle Joe Cannon was here, the watchdog of the Treasury, and he wouldn't allow the United States to pay for the land, and so it was changed afterwards, and the changes, of course, did not change the thing materially. The Red Lake Indians were very generous. They wanted to cede sections 16 and 36 to the State for school purposes, and they objected to that for a wonder, and they wouldn't have anything to do with Maj. McLaughlin after that. They had already made a treaty with them, so that by this act of 1904 the Red Lake Indians got something like \$200,000 more than they first bargained. So there was do damage done there.

The CHAIRMAN. To the Red Lake Indians?

Mr. GRAVES. To the Red Lake Indians.

Mr. HENDERSON. Mr. Chairman, before the witness takes his seat, may I ask the chairman to get into the record, if he will, a statement from this witness as to the comparative status of the Red Lake Indians and the status of the Indians on the other reservations in the State of Minnesota where allotments have been made.

The CHAIRMAN. You heard what Mr. Henderson said, and you can make any statement in regard to it that you desire.

Mr. GRAVES. Well, I think the Red Lake Indians—of course they have received considerable money from the act of 1904, much more than some of the other Indians, while the other Indians have been enjoying those fine lands—and they are allotted on fine lands—and some of them got as high as \$13,000 and up to \$20,000. Some of them did not get anything, of course, and by that they have been getting along first rate, but that doesn't help them to civilization, as was the intent of that act of 1889. That would not get them anywhere. They just know how to spend money when they get it.

The CHAIRMAN. I understand Mr. Henderson wants to have you state whether or not you thought the status of the Red Lake Indians was of a higher grade than that of the Indians that have already been allotted.

Mr. GRAVES. The Government has built houses for them out of the proceeds of the timber sales off of their allotments—that is those allotted Indians. The Government would sell the pine on their allotment and then they tried to get them to use that money for some good purpose and some of them did build houses and buy implements. A very few of them did that. They would rather

use it for some other purpose, and then if the department didn't let them use it for that purpose, the department would hold those funds against the law, or something like that, and of course the department's good intention has been run down by this kind of people. They misconstrue the idea or the intention of the department. That is the way I see it.

What is in the mind of the Red Lake Indians is that they want to be property holders. They don't want to be landless like the landless Indians. They want them held until they are far enough advanced to take allotments, so they can hold them for the full value if they want to sell them. They will know the value, and they will want their allotment then.

Mr. KELLY. They are not as far advanced now, then, as the White Earth Indians?

Mr. GRAVES. Well, I don't think so. They claim they are not in condition to take their allotments now.

The CHAIRMAN. Is that what you wanted to bring out, Mr. Henderson?

Mr. HENDERSON. Hardly, Mr. Chairman. What I wanted to know from the witness, if I could find out, was with reference to the general welfare of the people as a community and as a class, whether they live as happily and as comfortably as the Indians on the reservations where allotments have been made.

Mr. GRAVES. Of course, I think the Red Lake Indians live more happily than the others.

The CHAIRMAN. That is what he wants to bring out.

Mr. GRAVES. Under better conditions. They don't have to be confined, nor do they have to live on somebody else's land like the others do.

The CHAIRMAN. You would not want to say that a band of Indians that have not been allotted and have not come into the possession of their own land are in a more mature state looking toward citizenship than bands of Indians that have been allotted and have gone onto their own resources?

Mr. GRAVES. I don't understand the question. I don't get you, Mr. Snyder.

The CHAIRMAN. Well, I will try to put it this way: Of course, a great number of the Chippewa Indians have been allotted in other parts of Minnesota, and on the Red Lake none have been allotted. Now do you mean to say that the Red Lake Indians are in a higher state of civilization than those in the other sections of the Chippewa where they have become competent and have been allotted?

Mr. GRAVES. No; I don't claim that they are in a higher state of civilization. I don't claim that, but they do know they are civilized enough to know that they ought to be property holders.

The CHAIRMAN. Yes; but the whole theory of the Indian Service is to bring the Indian nearer to the state of civilization in his own right and make him a citizen. That is what we are all striving to do.

Mr. GRAVES. They have made wonderful progress.

The CHAIRMAN. It is certain that unless there is some good reason—and perhaps you stated the good reason—that the Red Lake Indians should not be assisted or helped in their efforts toward final citizenship, and I don't think that your band up there probably are wholly right in holding on to the tribal relation as hard as

you are. It has been thirty-one years now since you had an opportunity to be allotted, and no allotments have taken place; nothing has been done except in a very recent period to assist you looking toward citizenship. Now, without regard to how this legislation may affect the Red Lakes, this committee will not slacken its efforts to assist the bureau in bringing the Red Lake Indians toward citizenship as quickly as possible, because that is the theory; that is the policy, I believe, which should be followed and I think that is the policy of this committee.

Mr. GRAVES. That is what we would like to have followed out just for the time being until the Red Lake Indians want otherwise. Our school system is sufficient there.

The CHAIRMAN. I think we can consider that the gentleman has given us full information.

Mr. KELLY. He has said several times, Mr. Chairman, that he observes the value of being property owners. Now how can those Indians be property owners?

Mr. GRAVES. These Indians are holding that land in union, and in union there is strength, you see, and if we were allotted, unscrupulous persons would come one by one, and pretty soon we wouldn't have any land.

Mr. KELLY. Of course, that argument applies for communism, you know.

The CHAIRMAN. You can't stop the wheels of progress because some fellow is going to be defrauded of his land here and there.

Mr. HERNANDEZ. I notice they got rid of 250,000 acres very readily. They got rid of a good portion of their reservation.

Mr. GRAVES. That is the biggest price we ever got for land, too.

Mr. HERNANDEZ. That is not holding it.

Mr. KELLY. What do those Red Lake Indians do, Mr. Graves? What is their occupation? What occupation do they follow?

Mr. GRAVES. They are gardeners. They have been gardeners a long time before the other Indians were gardeners. They have been raising their own corn and they are known as corn eaters.

Mr. KELLY. The majority of them are farmers and gardeners?

Mr. GRAVES. Yes, sir; they are corn eaters. They have to raise their corn, while the other Indians are living on wild rice.

The CHAIRMAN. Now, if there are no other direct questions we will proceed with the next witness.

Mr. MERITT. May I take just a moment to explain the citizenship question?

The CHAIRMAN. Yes.

Mr. MERITT. Section 6 of the general allotment act approved February 8, 1887 (24 Stat. L., 388), permits Indians to become citizens by their own act. An Indian who leaves a reservation and goes out among white people and takes up his home and adopts the ways of civilization becomes a citizen without further act of Congress or the department. We are glad to have Indians on all of these reservations leave the reservation and go out among the white people and make their home. In fact, we advise them to do that. Any Indian in the United States can become a citizen, under section 6 of the act of 1887, by his own act; that is, leaving the reservation and going out among white people and taking up the ways of civilization.

Mr. KELLY. Do they thereby lose their rights on the reservations?

Mr. MERITT. No, sir; they do not.

Mr. KELLY. They can be allotted just the same as though they were on the reservation?

Mr. MERITT. Yes, sir. Therefore, the son of Peter Graves, who has left the reservation, is entitled to his allotment, and at the same time he can become a citizen of Duluth, if he so wishes.

The CHAIRMAN. Several people are shaking their heads around here with regard to that statement.

Mr. MERITT. That statement is correct, and I can read the law into the record to prove it.

The CHAIRMAN. Now wait a minute. You can have time in your three quarters of an hour to answer that if you see fit.

Is there any other witness for the Red Lakes who desires to be heard?

Mr. MERITT. Mr. Head, of the Red Lake Reservation, wishes to be heard.

The CHAIRMAN. Mr. Head has already qualified as a witness in the hearing.

STATEMENT OF MR. NATHAN J. HEAD, CHIPPEWA INDIAN.

Mr. HEAD. I will not cover as much ground as Mr. Graves has with the Red Lakes, but I will go over the history of the Chippewa Council a little bit.

I was an active member when the first organization was initiated. I was the first secretary. Mr. Rogers of Cass County was our president. We didn't do anything to further the intention of the county for a number of years, which I thought was the intention to protect the tribe in their property rights, especially for the Red Lake Tribe, as I understand it later. There has been several resolutions introduced in that general council, but nothing in any way would interfere with the rights of the different bands of tribes which they may have the prior right before the act of 1889, which has been explained in here when consolidation was made among the Chippewas of Minnesota. Then it came about later, after we went out of office, a new control element stepped in, employed an attorney, which now sits there, Mr. Ballinger, and takes the stand just like he has explained in here, insisting on the rights of the Red Lake Band of Chippewa Indians, and there was nothing for us to only step out of the council, thinking that our rights had been encroached upon. It seems that there was something in there that he wanted to get and they introduced the legislation in 1917 whereby the Red Lakers would have suffered if that had become a law. It was only just here lately, you know, the amendment you suggested in this proposed legislation where the Red Lakers would be entirely protected.

There have been questions asked in here why the Red Lakers object to allotments, and it has been ably explained by the commissioner, Mr. Meritt, and some of the members—Mr. Graves—that even in the commission making this treaty with the Indians they had stated that lands that wasn't fit for allotments, in order to get an equitable allotment under the act of 1904, so that it could be equitably made we made the proposition—this came from the Indians themselves—we made the proposition to Congress here that

the timber be first sold, as part of that proceeds be used for draining those lands, the Red Lake lands. That is now being carried out, is now in process of operation. The land has been laid out by the department so that an equitable allotment shall be made to the Red Lakers.

Mr. SINCLAIR. How long will it take to complete that plan?

Mr. HEAD. It has been stated by the commissioner in here, we have sold part of the timber accumulated, in the neighborhood of half a million dollars in the Treasury now, and shortly after that, of course, some of the land, I will admit, is suitable for allotment for those who want to take allotments.

The CHAIRMAN. Do you agree with the statement of the assistant commissioner that when this land is drained and the lumber is off that there will be plenty of proper land then for all the allotments?

Mr. HEAD. Ample enough; yes, sir.

Mr. SINCLAIR. You have an allotment in the Red Lake Reservation?

Mr. HEAD. I haven't any.

Mr. SINCLAIR. You haven't any right to an allotment?

Mr. HEAD. I had a right.

Mr. SINCLAIR. You want to be allotted, don't you?

Mr. HEAD. To that land: yes, sir.

Mr. SINCLAIR. You don't want to be allotted until the drainage proposition is completed?

Mr. HEAD. I have to follow just the contention of the tribe. Now, you know that construction as it has been explained to me, you couldn't possibly allot an Indian justly in that way. You know, and many people know, that nature having provided that timber on that property, there are tracts of that land that have more timber than others, and if that law became operative there would have to be a portion of the Indians that would be unjustly discriminated against, thereby the Red Lakers pray the Congress to have this law enacted which created the forest reserve, and also authorizing the Secretary of the Interior to sell for the benefit of all the members of the tribe and drain the lands. It was the intention that the bureau when they asked that legislation to drain those lands, so that they would make equitable allotments; so that they could be made.

It seems to me on Mr. Ballinger's contention that there is a barrier to go on and complete the adjustment of all the different bands of the Chippewas of Minnesota; I don't believe that is in the way, only it is just cleaning the way for something that we know might be a barrier to his intention to carry out his plans.

Mr. RHODES. What plans? What are his plans?

The CHAIRMAN. What do you mean by his plans? That is the best question, I think.

Mr. HEAD. Well, I may say that he has this object of becoming the attorney of the Chippewas in Minnesota. That has been the whole contention of the fight the way I can figure it out.

Mr. KELLY. As I understand it, you say you don't want to be allotted?

Mr. HEAD. I would take an allotment when these things are completed as the department has planned out.

Mr. KELLY. You think that will be some years yet?

Mr. HEAD. It would not be very long if Congress gives us authority to do what we want. It would be in the course of four or five years.

Mr. RHODES. Are you in favor of this legislation proposed, or are you against it?

Mr. HEAD. This legislation here? I am opposed to it.

Mr. RHODES. Whom do you represent here?

Mr. HEAD. I am just like I stated here before. I came in under my own accord.

The CHAIRMAN. He has been a witness previous to this in the hearing.

Mr. SINCLAIR. You belong to the Red Lake Band of Indians?

Mr. HEAD. Yes, sir.

Mr. RHODES. Are you half blood, or less than half blood?

Mr. HEAD. Less than half blood.

Mr. RHODES. Then it is not a fact that it is only the full bloods who are opposing the management by the present council?

Mr. HEAD. No; it is not. It is unanimous against the present council having anything to do with the Red Lake Band of Indians.

The CHAIRMAN. By the so-called band of Red Lake Indians?

Mr. HEAD. Yes, sir.

Mr. HERNANDEZ. Then the Red Lake Indians have no representative in that council?

Mr. HEAD. No, sir; not for the last two years.

Mr. HERNANDEZ. They have a council of their own?

Mr. HEAD. We have a council of our own; yes, sir.

Mr. HERNANDEZ. This other council that Mr. McDonald represents?

Mr. HEAD. Yes, sir.

Mr. HERNANDEZ. That is your council, I take it?

Mr. HEAD. No, sir; we have a council of our own in Red Lake.

Mr. RHODES. What I am getting at, it is not a question of a fight between full bloods and the mixed bloods, so far as you are concerned?

The CHAIRMAN. So far as the Red Lakes are concerned?

Mr. HEAD. No.

The CHAIRMAN. Now whom do you understand Mr. McDonald represents here?

Mr. HEAD. I don't know anything about that, until he appeared here. I suppose that delegation they had between the Chippewas of Minnesota, and the other factions in Minnesota, in pursuit of the lawsuits. Mr. McDonald represented the full-blood faction.

The CHAIRMAN. Of the Red Lake Indians?

Mr. HEAD. No, sir; of the others.

The CHAIRMAN. Of all of the Indians? Of all the Chippewa Indians? He claims to represent, according to your understanding, the full-blood Chippewas, I take it?

Mr. HEAD. According to what I have heard; yes, sir. I think that closes my statement to the committee.

The CHAIRMAN. Now, Mr. Henderson, you have seven minutes, if you desire to make any statement on your own account.

STATEMENT OF MR. SAMUEL P. HENDERSON, WASHINGTON, D. C.

Mr. HENDERSON. Mr. Chairman, and gentlemen of the committee, seven minutes is rather a short period in which to cover the subject.

The CHAIRMAN. But the fact that you have only seven minutes is not entirely the fault of the committee. You could have had more time if you had asked for it.

Mr. HENDERSON. I would very much rather have had the time taken up by the witnesses than in making the statement myself. I will ask the Chairman, however, to allow me some liberty in the way of inserting a brief into the record if it is deemed desirable, or if I can add any information to the knowledge that the committee has gained during this hearing with reference to any matter.

The CHAIRMAN. You might state just whom you represent, Mr. Henderson.

Mr. HENDERSON. I represent the Red Lake Band of Chippewa Indians, of the State of Minnesota, under a contract made with the authorities of the band pursuant to council resolutions, which contract has been approved in accordance with the provisions of the act of Congress, sections 21.3, 4, 5, and 6 of the Revised Statutes.

Mr. Chairman, I think, in view of the prospects that there seem to be of legislation along certain lines, it would be undesirable to go very largely at this time into a statement of any questions that would have to be passed upon by the Court of Claims. For that reason, whatever I might like to say for the benefit of the committee, for the information of the committee, in regard to the title to the Red Lake Reservation, I would prefer to submit in a more carefully prepared short brief.

The CHAIRMAN. I would like to ask you a question. How can any legislation of an administrative kind that would be lasting, be enacted at this time, until the titles have been cleaned up? It seems to me there is in this whole matter a question which ought to be settled first. We can go on, as I have said a dozen times in this hearing, and create legislation here which will perhaps tend to straighten out some of the seeming inequalities, but it doesn't get you any nearer to a final adjustment of these matters until the question of rolls has been cleared up; until the question of lines, of different reservations are cleared up; and until we know who owns the land, so that it can be allotted. It seems to me that those are things which ought to be first cleared up. At present it doesn't seem to me that legislation can be created here at this time which will be much of any improvement over that which exists to-day.

Mr. HENDERSON. Mr. Chairman, in response to that inquiry I should say that there was serious danger of making the condition more difficult than it is at the present time by further legislation, except as to these three propositions; that the Red Lake band, in the interests of the Red Lake band and the Red Lake Reservation, should be excluded entirely from the other legislation. No matter, Mr. Chairman, who is at fault or whether anyone is at fault, the facts are that to-day the Red Lake Reservation stands apart from all the other Minnesota Chippewa Indian property so distinctly and is governed in such wise that it must be evident to everyone that it is not only to the interest of the Red Lake band to have themselves segregated, both as to their lands and funds from the rest of the Chippewas, but that it is the only practical way to accomplish anything that these gentlemen who represent the general council are seeking to do. I can not imagine, Mr. Chairman, a greater anomaly than for the general council of the Chippewas of Minnesota to want to have to do anything, much less to insist upon it, to want to have

anything to do with the affairs of the Red Lake band, both because of the condition of the title and the rights and the interest that the Red Lakes have in their properties, and because of the embarrassing position that it must put all of the gentlemen in to be legislating about property where the owners of the same, first, don't want them to have anything to do with it, and second, where their interests are diametrically opposed to the interests of the managers of the general council. I can not conceive why they should not be ready—and I suppose perhaps they are now ready when we come to consider the text of this bill—to say: "Yes, take the Red Lake Indians out to themselves and let us have a chance then to deal with the problems which is relieved of its worst complexity."

Now, Mr. Chairman, when we have time to get down to the consideration of the law, when we come to deal with these persons involved in the proposed legislation one by one, I am sure that a great deal of light can be thrown upon the difficulties that are in the mind of members of the committee. I am hearing that Mr. Kelly's inquiries with reference to the Red Lake situation can be met perhaps more directly and much more fully than they have been up to the present time, and it will be a proper time to deal with that subject. If I venture upon it now it would take hours. It would lead off into side paths, side ways that it would take so long to discuss. I promise the committee that if we do have a hearing on this bill that the question of the proper interpretation of the act of 1889, so far as the Red Lake Indians are concerned, can be cleared up.

Mr. KELLY. I might just ask there in a word as a trained lawyer with a legal view of all these matters, are you convinced that the act of 1889 clearly gave special advantages to the Red Lakes aside from the other Chippewas?

Mr. HENDERSON. Thoroughly, Mr. Kelly. I am not only convinced by the qualifications which I do not wholly deserve, but convinced by 20 years of careful attention to the subject and association with and working for these people and of personal, intimate knowledge of them and with them on their reservations and here in Washington; and I simply desire to pass this subject with this suggestion, that an agreement with an Indian or with an Indian tribe, like an agreement with anybody else, is the mutual understanding between the parties and the rules of interpretation will apply equally to the agreement of 1889 with other agreements, and I pass the subject, as I say, with contenting myself with directly your attention to this fact: That we have the interpretation of the Red Lake Indians placed upon the agreement at the time if was made—I will only take a minute, Mr. Chairman.

The CHAIRMAN. You have only a minute left.

Mr. HENDERSON. We have the interpretation of the agreement passed upon by the other party to the contract, which was the commission; they have shown conclusively what interpretation they placed upon the agreement; we have the interpretation placed upon the agreement by the department, by the Secretary of the Interior, whose duty it was and who has all the facilities for determining that; and finally, gentlemen, and in conclusion, thanking you for your kindness, we have the interpretation of you gentlemen yourselves, the interpretation that Congress placed upon that agreement when they made the agreement of 1902 and the agreement of 1903 and passed the act of 1904.

(The written brief submitted by Mr. Henderson follows:)

BRIEF OF RED LAKE BAND OF CHIPPEWA INDIANS ON H. R. 12972 AND H. R. 12973,
SIXTY-SIXTH CONGRESS, SECOND SESSION.

The hearings before this committee on the legislation proposed in the bills above indicated have covered the general bill H. R. 12973 and the jurisdictional bill H. R. 12972.

THE GENERAL BILL.

The legislation embodied in this bill proposes to "wind up the affairs of the Chippewa Indians of Minnesota," in doing which two main purposes are sought, namely, (a) the further and final allotment of lands, immediately, among the unallotted Chippewas of Minnesota entitled to allotment, and (b) the per capita distribution, as speedily as possible, of all their tribal property held in trust by the Government, including surplus lands and the funds, principal and interest, arising, or to arise, under the act of January 14, 1889.

The specific purposes of the proposed legislation, summarized, are: To enroll and allot the members of the Red Lake Band; to add to the existing allotment rolls of the Chippewas of Minnesota and then to allot 160 acres, out of any reserved or undisposed of ceded lands, to each person so added to the roll; to have such allotments remain nontaxable for a given period; within six months after completion of the rolls to cause all individual funds standing to the credit of such enrolled persons to be paid to them, if competent, and, if incompetent, paid to parents or guardians in a manner therein set forth; automatically to pass fee simple title to allotments to competent enrollees; to adjudge certain persons competent and to possess such persons of all property held in trust for them by the United States; to issue patents in fee to all such persons; to require all conveyances of such allotted lands hereafter to be acknowledged before a United States commissioner or judge of a court of record; upon completion of all the rolls provided for in the bill, to distribute, at once, out of the trust funds arising under the act of January 14, 1889, the sum of \$300 to every person entitled to share in the distribution of that fund; to repeat such distribution as often as the trust fund will admit of a per capita payment of \$300, the payments to the competent ones being made direct, in cash, and for the incompetent ones the funds being transferred on the books of the Treasury of the United States to a special fund, but segregated and credited to them individually on the books of the Indian Office; to have all unpaid trust funds, whether segregated or not, continue, until paid, to draw interest at the rate of 5 per cent per annum, payments to be made to the legal guardians in cases where the parents or minors have died; in certain cases to divide the whole amount due into 10 payments, and in other cases into 20 payments, with the right reserved to the Commissioner of Indian Affairs to withhold payment from any parent or guardian who has misused or squandered the funds of the minors (sec. 1).

To dispose of all merchantable timber on any lands ceded under the act of January 14, 1889, and subsequently included in forest or other reserve, contrary to the intent of the act, paying to any allottee the value of the timber cut from his allotment; to have all lands heretofore ceded under the said act, and not disposed of according to its terms, together with any lands that may be recovered from the State of Minnesota, appraised at their true value, with the timber thereon, and upon completion of allotments, as authorized in the bill, sell such land and timber at public auction to the highest bidder, upon terms provided in the bill, and deposit the funds derived from such sale in the Treasury of the United States to the credit of the Chippewa Indians of Minnesota in their principal fund (sec. 2).

To convey to the State of Minnesota, for public-school purposes (upon terms to be fixed by the Secretary), all school buildings and lands on which the same are situated, belonging to the Chippewas of Minnesota; to use so much of the one-fourth of the annual interest accruing on the principal funds intended for educational purposes as is necessary to provide proper school facilities for children of Indian parents, who reside on their allotments; to limit the amount so applied for any child to \$175 a year; to withdraw from the principal of the trust funds money for educational purposes, if the interest be not sufficient therefor, but not to exceed \$75,000 in one year; to make a detail report annually to Congress of the money so used for school purposes (sec. 3).

To establish town sites on the Red Lake and White Earth Reservations, and upon any land ceded under the act of January 14, 1889, that has not been otherwise disposed of; to have the same surveyed and platted; to appoint, at once, three members of a town site board; and to sell and have patents issued for town lots in the manner prescribed in the bill, reserving certain rights to any owners of improvement thereon, the proceeds to be placed to the credit of the Chippewas in Minnesota fund (sec. 4).

To make resurveys or new and additional surveys of Chippewa Indian lands in Minnesota, for the purpose of correcting errors in previous surveys, or establishing boundaries anew, and to transmit reports of such surveyors to the Court of Claims (sec. 6).

To provide necessary rules and regulations in strict conformity with the provisions of the bill, for carrying it into effect (sec. 8).

To withdraw and use the sum of \$50,000, or so much thereof as may be necessary, from the principal fund of the Chippewa Indians in Minnesota, to defray the administrative expenses of carrying out the provisions of the bill.

To aid in carrying the bill into effect, a commission is proposed, to perform the following duties:

1. To add to the existing allotment rolls of all the Chippewa Indians of Minnesota.
2. To prepare the "Roll of incompetent allotted Minnesota Chippewa Indians," to include: (a) All minors, (b) all incompetent full-blood adults; and (c) all other incompetent adults of more than one-half Indian blood, allotted on the White Earth Reservation.

3. To prepare two other rolls to include the persons living on the date that the bill is enacted into law, who are unallotted, but entitled to share in the tribal funds arising under section 7 of the act of January 14, 1889, as follows:

First roll: Competents, embracing: (a) All adults of one-half or less Indian blood; (b) all others (who may be) found competent to handle their shares of such funds.

Second roll: Incompetents, embracing: (a) All minors; (b) adults of more than one-half Indian blood, incompetent to handle their shares of the fund.

The bill confers upon the "General Council of the Chippewa Indians of Minnesota," the following authority:

1. To appoint one of the members of the commission above mentioned.
2. To appoint one-third of the number of appraisers required to determine and fix the value of the lands and timber to be sold under the terms of the bill.
3. To appoint one of the three members of the board to establish town sites on the several Chippewa Reservations in the State.
4. To appoint one of the two surveyors provided for in the bill, to resurvey lands ceded by the Chippewas of Minnesota to the United States, to correct alleged mistakes made in the original surveys.
5. To expend for its own use and purposes an appropriation of \$15,000 a year for the period of five years out of the Chippewa in Minnesota trust fund.

DUTIES OF THE SECRETARY OF THE INTERIOR UNDER THE BILL.

Except that the President of the United States is to appoint one member of the commission, and is to issue patents for lots in any town sites established, the bill provides that the Secretary of the Interior shall perform the other functions required by its terms and not assigned to the commission or the "general council."

DIFFERENCE OF VIEWS DEVELOPED AT THE HEARINGS.

In the course of the hearing it is developed that the proponents of the legislation under consideration are officers of the so-called General Council of the Minnesota Chippewas; and that a large part of the Chippewa Indians of the State on the several reservations are strongly opposed, both to the legislation and to the authority assumed by the said council.

The Indian Bureau likewise has shown that it is firmly set in opposition to much that the proponents of the bills seek to accomplish by the legislation; and it appears that an agreement between the bureau and the proponents, on some questions at least, is unlikely.

VIEWS OF THE RED LAKE BAND.

The Red Lake Band ask that any legislation adopted at this time be so worded as to exclude expressly the members of this band from enrollment by the proposed commission for any purpose, and they further ask that section 7, as found on page 28 of the "committee print" of the bill, be retained as a part of any legislation enacted.

In so far as the separate rights and interests of the Red Lake Band are involved, the proposed legislation is deemed impossible; and as to the features purporting to apply alike to all the bands, the Red Lake Indians say that the scheme thus presented for "winding up the affairs of the Minnesota Chippewas" is premature, illogical, incomplete, and impracticable.

The Red Lake Band believe that until numerous legal questions involved in the act of January 14, 1889, and in the administration of the property of the Minnesota

"Chippewas thereunder, have been settled, the legislation proposed would retard, rather than hasten, a final settlement of the affairs of the Minnesota Chippewas.

The Red Lake Band therefore ask that a broad and liberal jurisdictional bill, fair alike to all the respective bands, as well as to the interests of the Chippewas of Minnesota as a whole, be favorably reported by the committee, in order that the issues possible thereunder may be submitted to the Court of Claims, and final decisions had on the same, before further attempts are made "to wind up the affairs of the Chippewa Indians of Minnesota."

At the outset, it is observed that the proponents of the bill base their argument in its favor mainly upon the bare text of the act of January 14, 1889, which they insist upon treating as an exact agreement, notwithstanding the evident fact that, so far as the Red Lake Band, at least, is concerned, the act, by its express terms, rendered the suggestion of any agreement on the part of that band, in the true sense, an absurdity, affording, as it did, no discretion whatever to the band in the matter of accepting or rejecting terms. It was a travesty.

As a matter of fact, the Red Lake Band never did accept the terms of the act, as is abundantly shown by the minutes of the proceedings of the councils held with the Chippewa Commission, from June 28, 1889, to July 6, 1889; and as is further shown by the attitude of the successors to that commission, by the attitude of the other bands of Minnesota Chippewa Indians and by the attitude of the Interior Department and of Congress from 1889 down to the present time.

The Red Lake Band offer no objection to completion of allotment rolls of the several bands of Chippewas, and, at the proper time, will favor not only completion but correction of all Minnesota Chippewa allotment rolls. And thereafter, when the legal question involved as to what lands are available for allotment have been adjudicated, they will offer no objection to final allotment in accordance therewith.

Likewise, no objection will then be offered by the Red Lake Band to the segregation of individual funds and the payment thereof to the Indian or his parent or guardian; nor to the preparation of rolls that will distinguish the competent from the incompetent members of the several bands; nor to the per capita payments and distribution of all tribal funds that can legally be paid and distributed; nor to the issuance of fee simple patents to competent Indians requesting the same; nor to enforcing payment of interest authorized by law on all funds, tribal or individual; nor to maintaining at all times an efficient Indian school system on the several reservations in Minnesota, using therefor as large a part of the tribal funds as is legally available, and distributing the benefits as equitably as possible among the Minnesota Chippewas generally; nor to appropriate provision for the sale of remaining unallotted lands and merchantable timber thereon ceded to the United States under the act of January 14, 1889; nor to the recovery, for the benefit of the Chippewas of Minnesota, of the swamp lands within their reservations, or the value thereof, the same to be converted into their trust fund.

But in considering this legislation, the following points deserve careful consideration:

Making rolls: No allotment or other roll of any of the bands can be safely and satisfactorily made without the aid of the council of that band. In the nature of things, no safeguard against mistake in the enrollment of Indians is so great as the approval of the council of the band being enrolled. Such a roll, made under the direction of the council, and approved by the Secretary of the Interior, will leave little necessity for further revision, except such as may have to be made in individual cases by a court of competent jurisdiction, in passing upon legal questions that arise, such questions as an enrolling commission could not be expected to settle finally.

DISTRIBUTION OF THE PRINCIPAL OF THE TRUST FUND.

The Red Lake Indians seek to avoid the danger of having their interest in this fund complicated by further legislation at this time providing for distribution; but would welcome legislation segregating their proportionate share thereof, to the end that the same might be preserved for and ultimately enjoyed by the members of the band, as contemplated by the actual agreement of 1889.

"THE GENERAL COUNCIL."

With reference to the "general council," which occupies a prominent place in the proposed scheme of legislation, it is evident to all that, as at present constituted and operated, the institution falls far short of meeting the approval of the Chippewa Indians of the State. Some reference to true conditions with regard to the elements composing the whole body of Chippewa Indians of Minnesota may serve to explain.

On January 14, 1889, when the Nelson Act was passed, the Chippewa Indians of Minnesota comprised four main divisions, namely, the Lake Superior Chippewas, the Mississippi Chippewas, the Pillager Bands, and the Red Lake Band.

The Lake Superior Bands occupied three reservations in the northeastern part of the State, namely, Fond du Lac, Grand Portage, and Boise Fort or Nett Lake. The Pillager Bands occupied Leech Lake, Cass Lake, and Lake Winnibigoshish Reservations, besides which the Otter Tail Band of Pillagers occupied a part of the White Earth Reservation.

The Mississippi bands, originally including the Gull Lake, Mille Lac, Sandy Lake, Rabbit Lake, Rice Lake, and Pokagomin Lake Bands, for the most part were living on the White Earth Reservation. The Mille Lac Band, however, had remained at their old reservation on the shores of Mille Lac Lake, and the Pokagomin Lake Indians had remained at White Oak Point, near Leech Lake, and were known as the White Oak Point Band.

The Red Lake Band occupied its present reservation near the shores of Red Lake in the northwestern portion of the State.

It is to be observed that the commissioners in negotiating agreements under the act of January 14, 1889, dealt separately with these bands, as will appear from their report embodied in House Executive Document 247, Fifty-first Congress, first session.

It there appears that separate councils were held with, and separate cessions and relinquishments obtained from, the Red Lake Band; the Pembina Band, residing on the White Earth Reservation; the Pillager Bands of Leech Lake, Cass Lake, and Lake Winnibigoshish Reservation; the Otter Tail Pillager Band, residing on the White Earth Reservation; the Grand Portage Band; the Fond du Lac Band; the Boise Fort and Deer Creek Indians, residing on the Nett Lake Reservation; the Mille Lac Band; the White Oak Point Band (corresponding to the Pokagomin Lake Band of Mississippi Chippewas); and the four remaining Mississippi Bands, namely, Gull Lake, Sandy Lake, Rice Lake, and Rabbit Lake Bands, residing on the White Earth Reservation.

These several bands all had their separate interests and identity, with the exception of the four Mississippi Bands, above named, the Gull Lake, Sandy Lake, Rabbit Lake, and Rice Lake Bands, living together and acting in one council on the White Earth Reservation.

This will sufficiently explain, perhaps, what some of the witnesses at the hearings, representing the full-blood element, for lack of time failed to convey to the committee with reference to the majority representation among the Minnesota Chippewas in the organization of a general council of the Chippewas of the State, constituted as the present general council is.

The Red Lake Band, in 1913, participated, it is true, in the organization of a general council, and for several years was represented therein by delegates; but, finding that the organization was not truly representative of the Minnesota Chippewas as a whole, and moreover that the council was assuming the right to extend its jurisdiction outside of the common business interests of the Chippewas of Minnesota, and was undertaking to invade the jurisdiction of the councils of the separate bands, the Red Lake band, in 1918, withdrew from the general council, has not since that time been represented therein, and denies the right of the general council, so called, to speak or act for them in any respect.

SCHOOLS.

With reference to provisions contained in the bill relating to schools, school properties and the use of trust funds for educational purposes, the Red Lake band urges that no measures be adopted that will in any wise abridge or interfere with the present school facilities and advantages afforded the Red Lake Band. They believe that no part of the trust funds, paid to or used for the benefit of the band, has yielded as valuable returns as the money expended for educational purposes on the Red Lake Reservation.

TOWN SITES.

The Red Lake Band object to any legislation authorizing the location and establishment of town sites within the Red Lake Reservation until after such time as the lands shall have been allotted. There is at present one town site established under a special act of Congress, which is the terminus of the railroad leading into the reservation, and the Indians believe that the establishment of further town sites would be detrimental to their interest.

SURVEYS.

The Red Lake Band protest against the expenditure of the trust funds of the Chippewas of Minnesota for resurvey of the Chippewa lands. They believe that if occasion should arise for additional surveys or re-surveys of reservation lines, it will only be after suits have been instituted under legislation yet to be enacted, and that when such necessity arises therefor, it will be ample time to incur the heavy expenses incident to making new surveys.

ALLOTMENT TIMBER.

If allotments are yet to be made upon the Minnesota National Forest Reserve, the timber on such allotments should be cut and disposed of for the benefit of the general fund, and not sold and credited to the allottee. There will be ample agricultural land upon the reserves to meet all requirements of those who may be added to the allotment rolls, and there would be no justification for allowing timber allotments to be taken by a favored few.

THE \$5,000 ANNUAL APPROPRIATION.

The Red Lake Indians believe that they are united with a very large majority of the Minnesota Chippewa Indians in objecting to the \$5,000 annual appropriation sought by the representatives of the general council for their expenses.

THE RED LAKE TITLE.

The Red Lake Band own their diminished reservation free from valid claim by any other Indian tribe or band, in discussing which subject reference is made to plates 33 and 34 of Royce's cessions, the numbers thereon indicating the tracts referred to.

The pretended claim recently asserted at hearings before this honorable committee by the representative of the body denominating itself "The General Council of Minnesota Chippewas," clearly ignores the following facts:

The Indian title to all of northern Minnesota prior to July 29, 1837, was in Chippewa Indians.

On July 29, 1837, the Chippewa Nation ceded to the United States tract No. 242, Royce's cessions.

On August 21, 1847, the Pillager Band of Chippewa ceded to the United States tract No. 269, Royce's cessions.

On September 30, 1854, the Chippewa of Lake Superior and the Mississippi ceded to the United States tract No. 332, Royce's cessions, out of which tract there was reserved for two of the Lake Superior bands (the Fond du Lac and the Grand Portage) tracts Nos. 338 and 339, respectively.

On February 22, 1855, the Chippewa of Mississippi, of which there were six distinct bands, ceded to the United States tract No. 357, Royce's cessions, out of which there was set apart a separate reservation for each of the six bands, the same being Nos. 453, 454, 455, 456, and 457. By the same treaty three tracts within the boundaries of the cession were reserved for the Pillager and Lake Winnibigoshish Bands.

NOTE.—In this treaty the Chippewa of the Mississippi also cede "All interest they may have in Minnesota or elsewhere."

On October 2, 1863, the Red Lake and Pembina Bands of Chippewas ceded to the United States the tract No. 445, Royce's cessions, and retained tract No. 446 for their own reservation.

At this point attention is called to the following facts:

1. Up to this time the Red Lake Band had not participated in any Chippewa cessions of land to the United States, nor had they received any benefit from the United States or the other bands of Chippewas in the State.

2. None of the other bands of Chippewas joined with the Red Lake and Pembina Bands in the cession No. 445, and no interest in the reservation of No. 446 was assigned to any of the other bands.

3. Until the act of January 14, 1889, took effect, no other cession of land was made by the Red Lake Band to anyone, and no further reservation was made for the band; so that tract No. 446 remained the home and the sole and exclusive property of the Red Lake Band from 1863 down to 1889.

Meanwhile, on May 7, 1864, the Chippewa of the Mississippi, joining in a treaty with the Pillager and Lake Winnibigoshish Bands, ceded to the United States the six reservations set apart for them by the treaty of 1855, and in lieu thereof received tract No. 507, Royce's cessions.

On April 7, 1866, the Bois Fort Chippewas, one of the Lake Superior bands, ceded to the United States tract No. 482, it being then the only remaining unceded and unreserved land in the northern half of Minnesota. Under the same treaty there was set apart for the Bois Fort Band as reservations the two tracts No. 483 and No. 484.

On March 19, 1867, the Chippewa of the Mississippi ceded to the United States the two tracts marked 507 on Royce's cessions, and received in lieu thereof reservations No. 508 and No. 509, Royce's cessions.

Thereafter, and until 1889, there were only minor changes in the status of the reservation holdings of the several other bands of Chippewas, and none in the holdings of Red Lake Band.

On March 3, 1873, a township of land, tract 542, was purchased from the Mississippi Bands out of the White Earth Reservation (tract 509); on October 29, 1873, by Executive order, there was set apart as an addition to the Lake Winnibigoshish Reservation, Tract No. 549; on November 4, 1873, by Executive order, there was set apart as an addition to the Leech Lake Reservation tract No. 550; on May 26, 1874, by Executive order, there was set apart as an addition to Leech Lake Reservation tract No. 567; on March 18, 1879, by Executive order, there was set apart an addition to the White Earth Reservation tract No. 610 (being in two separate parts), which was by a later Executive order, July 13, 1883, restored to the public domain; on December 20, 1881, by Executive order, there was set apart a very small additional reserve for the Bois Fort Band, tract No. 629; on June 30, 1883, by Executive order, there was formerly set apart for the Boisé Fort Band tract No. 484, which had been reserved under the treaty of April 7, 1866.

By way of preface to the consideration of the act of January 14, 1889, it may be said of northern Minnesota in those days that "there were giants in the land." The latter required for their growth and development vast quantities of pine timber for daily consumption.

The most valuable and expensive uncut pine timber in 1889 lay within the Chippewa reservations. There was a Federal statute which made it very inconvenient to remove such timber from the forest to the mills without express consent from the United States and the Indians. However, such removal was accomplished to a considerable extent. Especially was this true in the region of the Red Lake Reservation; and the Red Lake Indians were aware of that fact.

Accordingly, for several years prior to the act of January 14, 1889, there had been pronounced activity in efforts to secure such legislation by Congress as would make the Red Lake pine timber more easily available for the giant mills.

The Red Lake Band were Indians in fact as well as in name. To them the value of their reservation was actual, and when negotiations began for the acquisition of their pine they foresaw the danger of impending losses; the resistance they would offer to interference with their possession and ownership was patent to those who hoped to see their lands ceded and thrown upon to white settlers and their timber cut and sent to the mills.

On January 14, 1889, the act "An act for the relief and civilization of the Chippewa Indians of Minnesota" was passed. By the terms of the act the cession and relinquishment of Chippewa Indian lands therein provided for became valid and binding upon the Indians of the several reservations, if made and assented to in writing by two-thirds of the male adults of 18 years of age of the band or tribe of Indians occupying such reservations, except as to the Red Lake Reservation; as to the latter, it was not necessary to obtain the assent of any part of the Red Lake Band, because the act provided in effect that the Red Lake Reservation might be ceded by the assent of the other bands or tribes of Minnesota Chippewas, in the event the Red Lake Band did not give their assent, the extract provision being: "And as to the Red Lake Reservation, the cession and relinquishment shall be deemed sufficient, if made and assented to in like manner by two-thirds of the male adults of all the Chippewa Indians in Minnesota."

The commission appointed to negotiate for the cession of the lands on the several reservations appealed to the Red Lake Band first. Councils were held with the Red Lake Band daily from June 29 to July 6, 1889. There is a report of these councils, so far as the same was made by the commission, published on pages 67 to 87, inclusive, of House Executive Document 247, Fifty-first Congress, first session. This document is available, and will doubtless be carefully read and considered by the committee in arriving at its conclusion with reference to the rights of the Red Lake Band of Indians in and to their present diminished reservation.

Comment upon the manner and methods employed by the commissioners in dealing with the Red Lake Band, is superfluous to anyone who reads the text of the minutes of the seven councils reported. The religious zeal with which the welfare and interest of the Indians was kept in mind throughout, the clear perception that the Indians showed of the real purpose of the negotiations, the efforts made by the mature and responsible members of the Red Lake Band to oppose and withstand the disregard of encroachment upon their rights, the tenacity with which they held on, as long as their endurance would allow, to at least the cardinal principles of self-protection on the major points involved, and the final inducements that were offered by the commissioners to overcome the opposition of the Red Lake Band, furnish food for thought, at a time when legislation is being proposed to "wind up the affairs of the Chippewa Indians of Minnesota."

In 1837, when the first Chippewa cession in the State of Minnesota was made to the United States, the Red Lake Band occupied the very land that is now their diminished

reservation, and have continuously occupied it ever since, independently and exclusively of the three Lake Superior Bands (Fond du Lac, Grand Portage, and Bois Fort), the Pillager Bands (Otter Tail, Leech Lake, Cass Lake, and Lake Winnibigoshish) and the six Mississippi Bands (Gull Lake, Mille Lac, Rabbit Lake, Sandy Lakes, Rice Lake, and Pokagomin—or white Oak Point).

Prior to October 2, 1863, five vast cessions of and lying within the State of Minnesota were made by bands of Chippewa—the Pillager Bands, the Chippewa of Lake Superior and the Mississippi, and the Chippewa of the Mississippi, but in none of these did the Red Lake Band participate.

After October 2, 1863, three important cessions were made by the Chippewa of the Mississippi, the Pillagers, and the Bois Fort Bands, but in none of these did the Red Lake Band participate.

Between the date of the last treaty with the Mississippi Bands, March 19, 1867, and the act of January 14, 1889, there were numerous additions made by Executive order to the reservations of the Mississippi, and of the Pillager Bands, in none of which did the Red Lake Band participate.

In 1872 there was purchased from the Mississippi Bands residing on the White Earth Reservation a home for the Otter Tail Pillagers on that reservation; in 1873 a like purchase was made on the same reservation for the Pembina Band. The Red Lake Band participated in none of the proceeds of these sales.

The northern boundary of the Red Lake possessions in 1863 was Canada, the western boundary was a well-defined line far west of Minnesota.

The eastern boundary and a part of the southern boundary of the cession made in 1863 were the same lines used by the Mississippi Bands in the description of their northern and western boundary, eight years before, in their cession under the treaty of 1855.

So far as we can learn, no part of the annuities provided for the Mississippi Bands under the treaty of 1855 was ever claimed by the Red Lake Band; nor was any part of the annuities set apart for the Red Lake Band under the treaty of 1863 ever claimed by the Mississippi Bands.

So matters stood when the act of January 14, 1889, was submitted, translated, and interpreted to the Red Lake Band by the commissioners on the part of the United States sent to negotiate an agreement with the band, and when the band signed the agreement, under positive express promise that the diminished reservation then being set apart for them should thereafter belong exclusively to the Red Lake Indians.

It seems remarkable that during the 30 years since this agreement was made, in which time the Red Lake Band has, pursuant to legislation by Congress, been selling and disposing of much of its land and timber within the diminished reservation, no claim was suggested, until comparatively recently, by anyone that the Red Lake Band's ownership was not exclusive, and then that the claim should be put forth by those members of the Mississippi Bands in control of the "general council" organizations who have already received so largely from the general fund.

THE JURISDICTIONAL BILL.

As the Red Lake Band desire to submit an original and independent jurisdictional bill, and will offer such a measure as soon as the Red Lake Council have had opportunity to consider and agree upon it, the representative of the band on this point will advance this one suggestion, namely, that the Red Lake Indians are strongly in favor of legislation that will give the Court of Claims full jurisdiction to determine the rights, legal and equitable, of one and all of the bands of Minnesota Chippewas; but asks that such legislation leave each band free and independent to press its own claim, whether they be against the United States, the State of Minnesota, or against one or more of the other bands of Chippewas in the State; and that the legislation be so framed as to imply or impose no prejudice against any of the parties to the suits that may be instituted thereunder.

Respectfully submitted.

PETER GRAVES,
Delegate of the Red Lake Band.

DAN'L B. HENDERSON,
Attorney for the Red Lake Band.

The CHAIRMAN. Now, Mr. Ballinger, in closing the argument for your side, there is three-quarters of an hour left and I think it only fair that you should at least concede a little of that time to Mr. Meritt.

STATEMENT OF WEBSTER BALLINGER, WASHINGTON, D. C.

Mr. BALLINGER. Mr. Chairman, I am subject entirely to the desires of the committee.

The CHAIRMAN. I think if you have 30 minutes, we ought to give the commissioner 15 minutes.

Mr. BALLINGER. Mr. Chairman, we have had a morning and a half; Mr. Meritt took more time than we took.

The CHAIRMAN. Well, you took some of his time, too, you know.

Mr. BALLINGER. And then the others have followed. I leave the matter entirely with the committee.

The CHAIRMAN. I think it would be perfectly fair, and I think the rest of the committee would agree with me that if he has 30 minutes, Mr. Meritt, and you have 15 minutes to close, don't you think that sufficient?

Mr. RHODES. Yes; I think so.

The CHAIRMAN. Well, if that is understood, he can go ahead for 30 minutes and we will try and let him have his own way.

Mr. BALLINGER. Mr. Chairman and gentlemen of the committee, in the inception of this hearing the general council through me as its spokesman requested these gentlemen who have appeared before you to—during the course of their remarks before this committee—point out specifically and definitely any injurious provisions contained in this legislation. Up to this time, I have been able to ascertain but two objections, namely, first that the legislation deals with the Red Lake Reservation and they want the Red Lake Reservation let alone.

Second, some of them object, as they say, to the provisions of this legislation on the alleged ground that it will divest the department of the control of the Chippewa estate and put it in the hands of the general council. Now, Mr. Chairman, there is not a line in any bill that has been presented to this committee that divests the department of its jurisdiction or that confers that jurisdiction upon the general council. Let that be clearly and distinctly understood. The legislation does give the general council a minority representation, one out of three on some commissions to be appointed. The department has two-thirds of the membership of each commission so that the general council's representation will be wholly in the minority.

Now, Mr. Chairman, I want to come to this Red Lake situation squarely. I regret that the opposition has not met the issue squarely and meet a direct proposition with direct answer. In my opening remarks I laid down a definite proposition with reference to the Red Lake title, and I desire now in one or two minutes to restate that, and I shall pause at the proper time to see whether or not any man in this room controverts it, and if so, I will ask him to produce the evidence upon which he bases his contention. Under the treaty of 1854 the Chippewa Tribe divided. Those who went west were known as the Chippewas of the Mississippi. The cession of the western lands was to the Chippewas of the Mississippi. I read now, so that there can be no question about that, the cession provision of the first article:

The Chippewas of the Mississippi hereby assent and agree to the foregoing section and consent that the whole amount of the consideration money for the country ceded above shall be paid to the Chippewas of Lake Superior, and in consideration thereof,

the Chippewas of Lake Superior hereby relinquish to the Chippewas of the Mississippi all their interest in the claim to the lands heretofore owned by them in common lying west of the above boundary line.

Now that put the title in the Chippewas of the Mississippi to all the lands in the then Territory of Minnesota and that title included the title to the lands on the present Red Lake Reservation.

I pause now, Mr. Chairman, and I inquire of Mr. Meritt, I inquire of Mr. McDonald, or of anyone else in this room to cite us to a provision of a treaty under which the Chippewas of the Mississippi ever ceded or relinquished the lands within the boundaries of the present Red Lake Reservation, except by the agreements of 1889?

Mr. MERITT. We will answer that statement at the proper time, Mr. Chairman.

Mr. McDONALD. Because of the fact that I will not be here later in the day, I desire to state that it is our contention that the territory involved in the Pembina treaty so called, and the territory involved in the Red Lake Reservation, the original reservation belonged to the band of Red Lake Indians. The Pembina Indians, and those bands were never considered by anybody as members of the Mississippi Chippewas, and they are not included in the treaty referred to by counsel. We also contend that the Red Lake Reservation was not a reservation; it was not reserved by the Government for the Chippewas; it was Indian territory and was the remnant of Indian territory, and is not created by any treaty or by any act of Congress. It was in the territory, and the diminished reservation is still Indian territory belonging to all Red Lake Indians.

Mr. BALLINGER. Every acre of the Red Lake Reservation was embraced in the cession under the treaty of 1854 to the Chippewas of the Mississippi. Now, Mr. Chairman, when Mr. McDonald read to you the treaty of 1855, 10 Statutes, 1165, he read to you from the first section and I am going to read to the point where he read and then stop there; and then I will read the balance to you. He read:

The Mississippi, Pillager, and Lake Winnibigoshish Bands of the Chippewa Indians hereby cede, sell, and convey to the United States all their rights, title, and interest in and to the lands, now owned and claimed by them in the Territory of Minnesota.

That is where he stopped. That would take all the lands within the State of Minnesota, but what follows:

and included in the following boundary.

Now, what was that cession? There it is, gentlemen, delineated in light blue [indicating on map]. Here is the territory that was not ceded, and the territory not ceded by the treaty of 1855 embraces the diminished Red Lake Reservation, the title to which was reserved in the Chippewas of the Mississippi, and they never relinquished their title to that. So it was when they came to deal with the Red Lake Band in 1889 they did not deal with it as a band; the Indians residing on the Red Lake Reservation were not even legally known as the Red Lake Band, but the Indians living there were made up from all the original Mississippi Chippewas, and the only reason that they were dealt with up there on the Red Lake Reservation separately was because they had settled there and they were living there. The agreement—and I read now from the official document—recites these facts: "We, the undersigned, being male adult Indians over 18 years of age, of the tribes or bands of Chippewa Indians occupying and

belonging to the Red Lake Reservation"—of the tribes or bands. They came from all the bands of the Chippewas of the Mississippi!

Now, Mr. Chairman, just a bird's-eye view of this Red Lake Reservation, because if there is one thing that general council is determined to do, if it can, is to do something for these Red Lake Indians. It is conceded and has been conceded throughout that the Indians residing on the Red Lake Reservation are the most backward of all the Indians in all that country. They have been the pampered pets of the Indian Bureau, and it is conceded that they are less capable to-day of attending to their affairs than any other Indians in that country. Mr. Chairman, they have had paid to them under that act of 1904 and other acts nearly two millions of dollars from the sale of lands, timber, and other property. That to-day constitutes a claim against the United States on the part of the Chippewas of Minnesota. The department originated that legislation; they transmitted it to Congress, and the Indian Bureau by so doing created a claim against the United States to-day of nearly \$2,000,000 which, in my judgment, the United States must eventually pay out of the Public Treasury.

Now, what are they proposing to do here? I was amazed to learn that the Indian Bureau is behind this drainage proposition. They propose now to hold the funds derived from the sale of timber on the Red Lake Reservation and to use those funds in draining the rest of the Red Lake Reservation and handing over to the Indians, I presume, an allotment ready to stick the plow into. No other Indian had his land handed to him in that condition.

Mr. Chairman, they propose to denude the land of the timber and hand him a stump allotment, so that when he gets it it will cost him fifty to one hundred dollars an acre to grub the stumps and clear it. Do they propose to use these funds in clearing the stumps and hand him an allotment ready for cultivation? If they do not do that, they are skinning the Red Lake Indians, because they will hand him an allotment which, instead of being worth from two thousand to six or seven thousand dollars with the timber on it, will be worth from three hundred dollars to eight hundred, with the timber removed, and that is the way they propose to protect the Red Lake Indians.

Mr. Chairman, if they use these funds as they propose to do they are going to create another claim against the United States, because those funds belong to the Chippewas of Minnesota and not to the Red Lake Band.

Now, a bird's-eye view of that reservation. There are, I believe, 460,000 acres within that Red Lake Reservation. There are about 1,500 Indians residing on it. I hold in my hand the official report of the Commissioner of Indian Affairs for the last fiscal year. Out of the 460,000 acres on the Red Lake Reservation there was in cultivation, including the agency farm, last year 1,850 acres. The rest of that land has laid idle since the commencement of man. That reservation laid idle and the grass rotted upon it when the cattle were dying in the greater portion of the northwestern area last year, and not a dollar of revenue came in to any Indian from it, and yet the department proposes to continue that kind of administration. If it had conducted this as a business proposition, it should have realized from grazing and other permits alone an annual revenue of from \$300,000 to \$600,000 a year, and that is what they say they are doing for these Red Lake Indians and for the Indians in Minnesota.

Mr. Chairman, they have referred to the beautiful little homes on the Red Lake Reservation. I had heard about them. Last July I was on the Red Lake Reservation and went over it to see these beautiful homes. You will find little cabins with one and two rooms, log shacks, in which these people are living, notwithstanding that since 1904 they have been receiving annually per capita payments through this department of from \$38 to \$100 for every man, woman, and child. No other Chippewa received it, and yet they are to-day living in a state which you gentlemen would not tolerate if you could see it. There is no agriculture, no development. The very man who appeared before you to-day, Peter Graves, a grandfather, doesn't spend his time in useful industry. He is not a farmer, he spends his time in idleness, and he would have you continue this condition. Why? Because if you continue it they hope to take the proceeds and divide them per capita among the Red Lakes of the funds received from the sale of future property, which will amount to some four or five million dollars, and create another claim against the United States, just as they created it under the act of 1904.

Now, Mr. Chairman, Mr. Meritt told you that when an Indian left the reservation he did not lose his rights, nor did his children lose their rights. I propose to give you the names of some of them that lost property rights by removing from that reservation. The Indian Bureau has held that where an Indian left the reservation and moved off and a child was thereafter born to that Indian, the child was not entitled to share in the property of the reservation, because it was born off the reservation.

Mr. RHODES. Is that an exceptional case, or is that the rule?

Mr. BALLINGER. That has been the rule, and I am going to give you the names of the parents of children who have lost their payments during these years. Mrs. Foy, an enrolled member of the Red Lake band, some years ago moved to a point about 4 or 5 miles east of the east boundary of the reservation. The Indian Bureau has refused to enroll her children born since her removal.

Mrs. Leslin and Mrs. Brown, both enrolled members of the Red Lake band, removed from the Red Lake Reservation in order to better their condition—I overlooked Mrs. Leslin. Her children are in exactly the same fix.

Here are the names of the minor children of the Browns, born in 1906, 1910, 1912, and 1913, that have failed to participate in these payments because they were born off the reservation, and I want that list inserted in the record.

The paper referred to follows:

Melvina A. Brown, born November 15, 1906.

Earl C. Brown, born January 23, 1910.

Eva I. Brown, born January 9, 1912.

Ruth L. Brown, born January 13, 1913.

Now, Mr. Chairman, that statement was made here the other day, without an opportunity for me to check it back on the local office at Red Lake. Had I the time I could produce before this committee, I have no doubt, a long list of Indians who have lost their rights because they dared to go off of the reservation, and the Indian Office ought to know these facts, and it ought to be square and fair enough with this committee to come forward and admit it. I hate subterfuge.

Now, Mr. Chairman, I want to deal for just a moment with this question of the rights of the Beaulieus and Fairbanks and the other mixed bloods to participate in the distribution of the property of the Chippewa Indians. That seems to be the main grudge. It is an old controversy, as old as the hill, but like Banquo's ghost it will not down. They are still harping, "On, me daughter." The shrewd individual, and you have seen some of them before this committee—use that argument to appeal to the old and ignorant. That is their weapon. They can find no valid fault with anything the general council does, but they dig up these old things to stir up the ignorant and poor Indian—that is, the ration Indian—and that class—and it is these shrewd, ambitious men that the general council has been compelled to fight to a finish.

Now, let us take the propositions that they have handed down to you on which they base their claim that these parties gave up their rights under article 2, section 7 of the treaty of 1854, 10 Statutes, 1109. Now, under that article—I will state it so as to save my time—that article provided that any mixed blood of the Lake Superiors who desired to take an allotment could take 80 acres of land. That is the provision. I will insert the exact provision in my remarks.

The matter referred to follows:

ART. 2. Seventh. Each head of a family, or single person over twenty-one years of age at the present time of the mixed bloods, belonging to the Chippewas of Lake Superior, shall be entitled to eighty acres of land, to be selected by them under the direction of the President, and which shall be secured to them by patent in the usual form.

It will be observed that there was no provision in the above article excluding any person who took an allotment from further participation in the tribal property or from membership.

Instead of making allotments to the Indians, the department made a mistake, like many mistakes have been made, and they issued scrip, land scrip, in lieu of allotments. That land scrip was passed indiscriminately out by their own agents and by the agents of the land office in that country to such an extent that it became a public and national scandal, a commissioner of the General Land Office being involved in the transaction. Instead of them handing the scrip to the Indian it was issued in the name of the Indian and passed out to white men, and in many instances scrip was issued in the name of the Indian and neither the Indian nor any person connected with the Indian ever saw or heard or knew of it.

Now, what happened? In 1889, when they came to negotiate the agreement with the Chippewa Indians of Minnesota, the rolls were made by the commission and then submitted to the Indians themselves, to their chiefs, and by their chiefs and their head men in council ratified. I read now—for this matter has been adjudicated both by the Court of Claims and by the department—and I read now from the statement of fact appearing in the statement of fact of the Court of Claims, dated December 21, 1914, in the case known as Departmental No. 158, in the matter of the petition of Charles P. Wright et al., for the purification of the White Earth rolls. The court went into this matter exhaustively. I am the man who filed the motion to dismiss, and the court sustained my motion. Neither the court had jurisdiction nor was there equity in the complaint

filed. I read now from the finding of fact by the court. The court quoted from the record of the commission as follows:

Mr. RICE. We must meet again as soon as we can to look over the rolls and see that they are correct, to enable you to go home. There will be to-night a double issue of flour, but we hope that before you leave you will come in to compare the roll, as that is very important. The chiefs should be here for that purpose. (P. 116 of the record of this commission.)

Mr. RICE. This act covers that point as well as all others that could possibly be foreseen. If there are names on this roll which should not be there, please let us know, and if there are any names which should be there and are not, please inform us so that the roll may be corrected.

The census rolls were then carefully read over to the Indians present at the council, which was largely attended.

Mr. RICE. The census rolls have been carefully read to you and corrected, and we wish to know whether as so corrected they are satisfactory to you.

To this question the Indians responded. "Yes, yes," and all expressed themselves as perfectly satisfied.

Now, Mr. Chairman, if prior to the agreement of 1889 there had been a question as to right of the Fairbanks, of the Beaulieus, and of these other mixed bloods to be on the rolls, the assent of the Indians at that time forever foreclosed anyone from making an objection. That is fundamental law. Notwithstanding the Court of Claims has decided the question in favor of both the Beaulieus and the Fairbanks and the department, the Court of Claims twice decided it, the first time in their favor, again upon a motion for rehearing or re-reference they decided in their favor, and then they took it back into the department and tried to get the department to assume jurisdiction, and the department decided it against them and in favor of the Fairbanks and Beaulieus, yet they come in here, and a good part of the time of this committee has been taken up by such men as Caswell, and others, telling you about how these people were improperly on the roll and how they were attempting to dominate and control the Chippewas, the real Chippewas in that country. Why, these men are of Chippewa blood. The only difference between them and many of the others is that they come from distinguished ancestry on their father's side. Ben Fairbanks is from the same Fairbanks family from whence came Vice President Fairbanks. The Beaulieus come from a distinguished French-Canadian family. They are men of courage; they are men of ability; they are men of brains; they are men of integrity. As a business proposition, Mr. Chairman, those men are not personally interested in this estate from a financial standpoint. Every one of them are losing more from being here at this session of Congress than they will ever get out of the estate. They are all men of business affairs, but they have come here for the purpose, if possible, of doing something for their own blood—a laudable undertaking. That is their object.

Mr. Chairman, the other day when I was before this committee, I submitted to you certain statements taken from the official figures contained in that book [indicating], the annual report of the Commissioner of Indian Affairs for the fiscal year ending June 30, 1919. When Mr. Meritt came to reply he referred to the misstatements that I have made, but when he came to give you figures he did not deal with those figures; he brought in a new set of figures and presented them to the committee. That was not fair, Mr. Meritt, to say that I had made misstatements of fact when that book contains exactly what I told you. Those are the figures upon which you have been

coming to Congress and getting your annual appropriations, and God knows if they were good enough for the bureau to come here and get annual appropriations on out of trust funds, they ought to be good enough for me to cite at this hearing. When you take a look at the Indian Bureau it is like looking into a kaleidoscope; now you see one scene and then instantly the scenes are shifted on you.

I reaffirm, Mr. Chairman, every statement of fact that I made to this committee in my opening statement. I have no objection in deceiving you. The very life of a lawyer is his reputation for honesty and accurate statement. When that is gone there is nothing left, and I pity the man who goes before the court or comes before a tribunal and undertakes to resort to camouflage and to covering up. If he has got a case, let him state it; if he has not, let him like a man say so.

Now, Mr. Chairman, I notice that my time has almost expired.

The CHAIRMAN. It has expired.

Mr. BALLINGER. I haven't had an opportunity to cover a lot of stuff that has been put into this record that has no relation, Mr. Chairman, in my judgment, to the matters that you have under consideration; but, Mr. Chairman, this record will be sent out to the Chippewa country; appeals will be made to the Indians out there based on statements appearing in this record, and I ask the privilege when these statements are filed, of looking over them and filing such reply, based upon the official records, as may appear proper.

The CHAIRMAN. You will have that right unless there is objection.

Mr. MERITT. Mr. Chairman, may we have served upon us any statement that Mr. Ballinger proposes to incorporate in the record?

Mr. BALLINGER. I would not file one with the committee without doing it.

Mr. MERITT. So that we may have an opportunity to file an answer?

The CHAIRMAN. Mr. Ballinger says he will file a copy of it.

Mr. BALLINGER. I will serve it upon them or anyone else in this room who desires it.

Mr. RHODES. Mr. Chairman, just one question. Mr. Ballinger made a statement here in the form of a challenge with regard to certain matters with which Mr. Meritt and Mr. McDonald both took issue but Mr. Henderson remained silent. I want to ask Mr. Henderson if he acquiesces—if his silence indicates that he acquiesces in what Mr. Ballinger has said?

Mr. HENDERSON. It does not at all, Mr. Chairman. On the contrary, I take exactly the opposite view from Mr. Ballinger as to the rights of the Red Lake Indians.

(Mr. Ballinger's written statement follows:)

RECAPITULATION BY WEBSTER BALLINGER, ATTORNEY FOR THE GENERAL COUNCIL OF THE CHIPPEWA INDIANS OF MINNESOTA.

THE NECESSITY FOR THE LEGISLATION.

Thirty-one years have now passed since the United States entered into agreements with the Chippewa Indians of Minnesota under the act of January 14, 1889 (25 Stats., 642), for the allotment "as soon as practicable" of lands to each member of the tribe, the cession of all reservations, except sufficient lands on the White Earth and Red Lake Reservations to make the allotments to the Indians entitled thereto, to the United States in trust to be sold and disposed of and the proceeds derived therefrom to be placed in the Treasury of the United States to the "credit of all the Chippewa Indians of Minnesota."

During these 31 years not an allotment has been made to an Indian residing on the Red Lake Reservation, notwithstanding the act of January 14, 1889, as agreed to by the Indians, provided that allotments should be made to them "as soon as practicable" and authorized the Secretary of the Interior in any case where an Indian failed or refused to take an allotment within four years to arbitrarily make the allotment.

To-day four reservations, viz, Fond du Lac, Grand Portage, Leech Lake, and Net Lake, are retained intact, notwithstanding each of these reservations were ceded in 1889 to the United States to be sold and disposed of and have never had any legal existence since the date of the cession. The unallotted lands within their borders have during all these years remained idle and unproductive. Upon each of these four reservations the department has, contrary to law, maintained agencies, and great numbers of agency employees. These agencies thus illegally maintained for 31 years, have been supported out of the trust funds of the Indians at an annual cost of \$75,000.

Between 400,000 and 500,000 acres of the lands ceded to the United States in trust in 1889 to be sold and disposed of for the benefit of the Indians, were placed in the Minnesota National Forest Reserve and locked up pursuant to an act of Congress in violation of the agreements of 1889. Although the forest reserve properly includes less than 200,000 acres, its boundaries extend around more than 400,000 acres. Upon this reserve there remains less than 100,000,000 feet of timber to be cut. Reforestation can not occur in 100 years. Much of this land is as rich as any land in the State of Minnesota. It is to-day all locked up in a useless forest reserve, contrary to the agreements entered into with the Indians in 1889, under which the lands and timber were to be sold and the proceeds placed in the Treasury of the United States to the credit of the Indians. About 300 Indians were allotted on lands subsequently included within the limits of this reserve. Their allotments were thereby rendered valueless. They are inaccessible. The Indians can not use them to advantage. They are far removed from schools. These Indians, by reason of the illegal establishment of this useless forest reserve, have become a charge upon the Chippewa Tribe, and trust funds of the tribe are being used annually to support them. The legislation proposed by the general council will wipe this forest reserve out of existence.

The Red Lake Reservation, consisting of about 460,000 acres, has remained idle for 31 years. About 1,500 Indians reside on this reservation. Last year, according to the annual report of the Commissioner of Indian Affairs for the fiscal year ending June 30, 1919 (p. 127), only 1,850 acres, including the agency farm, out of the 460,000 acres on the reservation, were in cultivation. Practically the entire reservation is to-day, and has for 31 years remained idle and unproductive, notwithstanding from grazing privileges alone it could have produced more than \$250,000 annually, or during the 31 years, \$7,750,000. While cattle were starving last year in Idaho, Montana, and other Western States, the grass on this reservation, sufficient to have fed 150,000 head of cattle, was allowed to rot. The allotments on this reservation were to have been made 31 years ago, and the residue of the lands sold and disposed of and the proceeds placed in the Treasury to the credit of all the Chippewa Indians of Minnesota.

Between 700,000 and 1,400,000 acres of land ceded to the United States under the agreements of 1889 to be sold and disposed of and the proceeds placed in the Treasury of the United States to the credit of all the Chippewa Indians of Minnesota, have been either patented to the State of Minnesota or have been applied for by the State of Minnesota, upon the theory that the State was entitled to the land under the swamp-land donation act of 1860. It is now conceded by the department that the issuance of the patents to the State for the land already patented was a mistake, and that the State was never entitled to an acre of this land. It is necessary that suit should be brought without delay to recover back the land patented to the State and undisposed of by the State, to recover from the State the proceeds derived from the sale of the land conveyed to the State and by the State sold, as well as to settle for all time the right of the State to the lands it has applied for and which have not been patented. Unless this suit is authorized without delay these lands will pass beyond recovery, and the United States must then pay the Indians therefor, which would aggregate from 5 to 10 million dollars. Comparatively little of this land patented to the State has been by the State sold. The majority of it is to-day lying idle and unproductive, as it has for 31 years. Much of it is as rich land as there is in the State of Minnesota, and with but slight draining can be made as valuable farming land as is within the limits of the State.

Probably a half million acres of land ceded to the United States in trust under the agreements of 1889 and not embraced in any reserve or within the lands claimed by the State remains undisposed of.

Thus approximately 2,000,000 acres of land ceded to the United States in 1889 to be sold and disposed of for the benefit of the Indians to-day remains idle and unproductive solely as the result of the failure on the part of the Indian Bureau to carry out the agreements of 1889. Not an acre of this land is subject to taxation by the State or

county. Not a dollar of income is being derived by anyone from it. The holding of this land, in violation of the agreements of 1889, has prevented settlement, the establishment of schools, roads, drainage districts, and every kind and nature of development. The bill as proposed by the general council will dispose of this land, resulting in its development and the consequent advantages to the Indians, the State, and the Nation.

Notwithstanding the agreements entered into in 1889 provided for the immediate allotment of so much of the lands on the Red Lake Reservation as were required to make allotments to Indians residing on that reservation and the sale and disposition of the remaining lands, the department failed or refused to make any allotments on this reservation. In 1902 the white people living at Thief River Falls and around the southwestern corner of the reservation sought to have 256,152 acres of the land thrown open to entry. Under the agreement of 1889 all that was necessary to effectuate this purpose was to allot the Indians residing on the Red Lake Reservation and automatically the land remaining unallotted became subject to homestead entry. Instead of making the allotments, the Indian Bureau sent a representative to the Red Lake Reservation to negotiate with the Red Lake Indians for the sale and disposition of 256,152 acres of the land embraced within the reserve. The Red Lake Band had only an interest in common in this property the same as all other members of the Chippewa Tribe in Minnesota. They had no right legally or morally to make such a cession.

The representative went to the Red Lake Reservation and negotiated an agreement with the Red Lake Band exclusively for the cession of the 256,152 acres, none of the other Chippewa Indians being consulted. Upon the land to be ceded a part of the Indians were then living. The 256,152 acres comprised the best land on the reservation for allotment purposes. In order to induce the Red Lake Band to enter into this dishonorable agreement, the Indian Bureau agreed that the entire amount of \$1,000,000 to be paid for the lands ceded should be paid to the Red Lake Indians alone to the exclusion of all the Chippewa Indians of Minnesota, the rightful beneficiaries. It was further agreed that the Red Lake Indians should possess the remainder of the reservation exclusively, and that they should be entitled to allotments of 160 acres of land, twice the amount provided for in the agreement of 1889. This enticing bait appealed to the Red Lake Indians, who knew at the time it was wrong. They entered into this agreement in the belief that it would repeal their agreement of 1889. The Indian Bureau submitted the agreement to Congress and it was included in the Indian appropriation bill approved March 3, 1903 (32 Stats. L., pp. 1010-1011), in modified form, the modification consisting of this: The agreement negotiated by the representatives of the Indian Office provided for a cash payment of \$1,000,000. The provision contained in the act of March 3, 1903, provided that the land should be disposed of at not less than \$4.50 per acre, the proceeds to be paid to the Red Lake Band. The provision contained in the appropriation bill of March 3, 1903, provided that it should not become effective unless ratified by the Red Lake Indians. This was submitted to the Indians and by them rejected on the stated ground that if this land was to be sold and disposed of as the Government was selling and disposing of the land ceded under the agreements of 1889 they would receive practically nothing for the cession. After its rejection by the Red Lake Indians the same provision was inserted in the act of February 20, 1904 (33 Stats., 48-50), and enacted as a law. Approximately \$1,300,000 was received from the disposition of this land, and the entire proceeds were paid to the Indians residing on the Red Lake Reservation, to the exclusion of the other Chippewas of Minnesota, who were owners in common with the Red Lakes of the land. Here the Indian Bureau created a valid claim against the United States for \$1,100,000, representing the amount the other Chippewas were entitled to receive, which the United States must sooner or later pay.

In 1916 a member of the Minnesota delegation introduced a bill in Congress, drafted or inspired by an employee of the Indian Bureau in Minnesota, and providing for the establishment of a forest reserve on the Red Lake Reservation. This bill was drawn in the interests of a lumber company. It was designed and intended to reach the stands of valuable timber on the Red Lake Reservation. It was a sugar-coated proposition. The Indian Bureau promptly fell for the scheme, and it was supported by a distinguished member of the Minnesota delegation, who, placing reliance in the representations of the Indian Bureau that it was designed and intended to perpetuate the primeval pine forest of Minnesota, introduced and secured the passage of the legislation. The provision is found in the Indian appropriation bill approved May 18, 1916 (39 Stats. L., 137), the place where vicious Indian legislation is usually secured. Mr. Meritt disclaimed on behalf of the Indian Bureau authorship of this provision. The cold record shows that a bill was introduced, referred to the Indian Bureau for report, and that the Indian Bureau revised the bill as introduced and recommended the legislation in the revised form. (See Cong. Record, vol. 53, part

14, p. 1101.) Notwithstanding Congressman Chipperfield went before the committee having the bill under consideration and pointed out that its objects were to permit the very scheme later pulled off, the Indian Bureau urged the legislation. (Cong. Record, vol. 53, part 14, p. 1101-1104.)

About a year after the enactment of this provision the department entered into a contract with the International Lumber Co. to cut all the merchantable timber within practically the entire limits of the forest reservation. By this legislation the lumber company was able to make one contract. If the land had been allotted as provided by the agreement of 1889, the company must of necessity have dealt with each allottee. An advantageous contract was obtained by the company and all the merchantable timber on the greater portion of the forest reserve is now being cut. The proceeds derived from this timber are being placed in the Treasury of the United States to the credit of the Red Lake Indians. The Red Lake Indians are not the owners of the fund. The fund belongs to all the Chippewa Indians in Minnesota. If this money should be disbursed to the Red Lake Indians, as they are demanding it shall be, a claim aggregating several million dollars will accrue against the United States. If the legislation proposed by the general council is adopted this question will go to the Court of Claims, will be by the courts decided, and the money will follow the judgment, thus holding the United States harmless.

Under section 7 of the act of 1889 (25 Stat., 642) only the net proceeds derived from the sale and disposition of the property ceded to the United States were to be placed in the Treasury to the credit of all the Chippewa Indians, the expenses of administration to be first deducted. The statement furnished me by the Secretary of the Treasury and appearing in the record of this hearing shows that there have been deposited in the Treasury \$13,472,766.18. This does not represent all the money received from the sale of property. It represents a part only of the expenses of administration, for during the early years of the operation there were no funds in hand and it was necessary for Congress to make appropriations out of the Public Treasury with which to conduct the work, each appropriation being made reimbursable.

The Indian Bureau has refused to furnish the general council of the Chippewa Indians of Minnesota a complete statement of the moneys received from the sale of property, and the total cost of operations. The official statement from the Secretary shows that out of \$13,472,766.18 there have been expended \$7,636,040.57. Of the amount expended, about \$1,500,000 was paid to the Indians in a per capita payment pursuant to the provision contained in the act of May 18, 1916. Only incidental benefits have been received by the Indians from the more than \$6,000,000 that were placed in the Treasury of the United States and expended by the Indian Bureau. These six millions of dollars represent only a part of the cost of administration. It can not be pleaded by the Indian Bureau that any considerable part of this money has been properly used for educational purposes, for by section 7 of the act of 1889 one-fourth of the interest money was set aside to be used exclusively for school purposes, and beyond this amount the Indian Bureau had no lawful right to go. A limited amount of this six millions of dollars, probably \$500,000 in all, was used by the Indian Bureau for school purposes, but if practical business methods had been applied to the schools maintained by the Indian Bureau, the interest money alone would have been abundant. The great majority of this \$6,000,000 has been squandered in the most reckless administration known to even Indian estates, and if permitted to continue would exhaust the fund in a few years.

For years the Indian Bureau has been going to Congress and securing appropriations for alleged support and civilization of 12,000 Indians. As a matter of fact, not 10 per cent of the adult Chippewa Indians are to-day, nor have they been in the last 30 years, within the class that needs any support and civilization at the hands of the Indian Bureau. These appropriations thus obtained have been squandered in the maintenance of large armies of Indian Bureau employees in Minnesota who have been the direct beneficiaries, the Indians receiving only incidental benefits.

During the course of the hearing Mr. Meritt, Assistant Commissioner of Indian Affairs, referred to statements made by counsel for the general council as "extravagant." Mr. Meritt has never been on a Chippewa Reservation in Minnesota. Only two Commissioners of Indian Affairs in 31 years have visited the Chippewa country, and they went there years ago on special missions and never took the time to inquire into general conditions. The statements made by Mr. Meritt are based upon reports of the bureau agents in Minnesota. These men are anxious to perpetuate their jobs. They care nothing about holding 12,000 human beings in a state of virtual servitude and tying up over two million acres of land, so long as they can perpetuate their jobs and draw their salaries. If Mr. Meritt had taken the trouble to have gone to Minne-

sota and personally looked into the situation he would not have tolerated the extravagant waste of trust funds that have occurred in the past. No honest man of good judgment could have tolerated such conditions.

If the bill as proposed by the general council of the Chippewa Indians of Minnesota is enacted into law—

(a) It will release the United States from apparently valid claims against it arising from the establishment of forest reserves and the maintenance of Indian reservations aggregating from \$5,000,000 to \$8,000,000. (See sec. 2 of the bill.)

(b) It will release the Indians to receive the market value of their remaining lands, thus securing for the Indians the amount of the claims they would waive against the United States over and above the amount they would receive for the sale of the property under existing law.

(c) It will save the United States from \$10,000,000 to \$16,000,000 in claims that will certainly accrue against it unless prompt action is taken, viz, from four to six million dollars on the Red Lake Reservation, and from six to ten million dollars in land conveyed and about to be conveyed to the State of Minnesota, admittedly contrary to the trust agreement of 1889.

(d) It will immediately liberate all competent Indians and discharge them from any further supervision or control at the hands of the Indian Bureau.

(e) It will continue the restrictions upon the allotments of all incompetent Indians, but give them their funds at stated times in annual partial payments, for their support.

(f) It will dispose of more than 2,000,000 acres of virgin land now remaining idle and unproductive, rendering the same productive and taxable.

(g) It will conserve the property of the Chippewa Indians of Minnesota for the Indians themselves.

(h) It will provide suitable public school facilities for every Indian child.

(i) It will adjust and compose every controversy between the Indians and the United States or between the Indians.

(j) It will result in winding up within the five or six years the tribal affairs of the Chippewa Indians of Minnesota and discharge them.

(k) It will result in a blessing to the Indians, the people of Minnesota, and of the Nation.

(Following is an additional statement of Edgar B. Meritt, Assistant Commissioner of Indian Affairs, in answer to the brief of Attorney Webster Ballinger:)

1. I will not take the time to answer in detail all of the statements made by Mr. Ballinger, inasmuch as I have answered most of those statements in my oral argument before the committee. The fact that all of the statements of Mr. Ballinger are not answered specifically should not be construed as admitting the correctness of his statements. As was shown in the hearing, a large number of the statements of Mr. Ballinger are greatly exaggerated, and some of them have no basis in fact or in law.

2. The department favors the Chippewa Indians being permitted to go to the Court of Claims and having their claims against the Government adjudicated. The jurisdictional bill, however, should be in proper form so that the interests of all the Indians and the Government would be fully protected. It is apparent that Mr. Ballinger is endeavoring to get legislation so worded that it would be unfair to the Red Lake Indians and would place an undue burden upon them as well as the Government. We have submitted a draft of legislation which would authorize the claims of the Chippewa Indians to be adjudicated and which would be fair to all interests. We favor the legislation submitted by the department, but are opposed to the amendments proposed by Mr. Ballinger.

3. We are also in favor of legislation that would wind up the affairs of the Chippewa Indians at the earliest practicable date and we have submitted to the committee a draft of legislation with that end in view. Mr. Ballinger has suggested certain amendments to this legislation that would be unfair to the Red Lake Indians and we are opposed to those amendments.

4. I reiterate my statement before the committee—that the Indian Office did not initiate the legislation contained in the act of May 18, 1916 (39 Stat., 123-136), creating the forest reserve on the Red Lake Reservation. That legislation was initiated by a Member of Congress from the State of Minnesota, and was sent to the department for report. This statement of the facts can be confirmed by the records of Congress. The legislation has resulted in good to the Red Lake Indians and we have no criticism to make of this legislation enacted by Congress. It had enabled the department to sell the timber on the Red Lake Reservation at a very high price and

the interests of the Red Lake Indians have been fully protected. The Red Lake Indians have no complaint to make in regard to this legislation and the only criticisms made of it are by the White Earth Indians. This legislation prevented certain timber interests of Minnesota from getting the timber on this reservation from the Indians for an inadequate price, as was done on the White Earth Reservation.

5. We have made clear to the committee the reason why allotments have not been made on the Red Lake Reservation. It has been entirely impracticable to make allotments on that reservation for the reason that a large part of the reservation needs to be drained and legislation is now pending before Congress with that end in view; also a part of the land contains very valuable timber and if this timber land were allotted before the sale of the timber the Indians who received timber allotments would get more than their pro rata share of the property of the Red Lake Reservation. The Red Lake Indians are entirely satisfied with the manner in which we have handled their property. They have protested against allotments being made until the timber could be sold and the land drained. The attitude of the White Earth Indians in endeavoring to control the property of the Red Lake Indians should, to say the least, not be encouraged by allowing them to procure the enactment of the legislation they desire over the protests of the Red Lake Indians and the Interior Department.

6. The committee will recall that Mr. Ballinger claimed that we initiated the legislation contained in the act of February 20, 1904 (33 Stat., 46), wherein the Congress recognized the property rights of the Red Lake Indians to the entire lands within the boundaries of the present Red Lake Reservation. A similar recognition was given by Congress in the act of May 18, 1916 (39 Stat., 123-136), creating the forest reserve on the Red Lake Reservation. Members of the House Indian Committee will recall that Representative Steenerson, in whose district the Red Lake Reservation is located, stated to the committee that he was the author of the act of February 20, 1904 (33 Stat., 46), relating to the Red Lake Reservation, known as the Steenerson Act, and that he stoutly defended the rights of the Red Lake Indians to all property within that reservation. Attention is invited to the record showing his statement in connection with this matter; also to the specific provisions of section 1 of that act, which reads in part as follows:

"It is further agreed that the said Indians belonging on the said Red Lake Indian Reservation, Minnesota, shall possess their diminished reservation independent of all other bands of the Chippewa Tribe of Indians and shall be entitled to allotments thereon of one hundred and sixty acres each, of either agricultural or pine land, the different classes of land to be apportioned as equitably as possible among the allottees."

It will be appreciated that Mr. Ballinger is doing everything within his power to break down the force and effect of the provisions of the acts of 1904 and 1916, wherein Congress specifically recognized the rights of the Red Lake Indians to the Red Lake Reservation. In this connection it should also be borne in mind that the Red Lake Indians contributed approximately 2,000,000 acres of land that were ceded by the Chippewa Indians—more lands than were ceded by all the other bands of Chippewa Indians combined, and the proceeds from the sale of such lands went into the general Chippewa fund and was shared by all Chippewa Indians alike.

7. One of the amendments proposed by Mr. Ballinger would avoid the provisions of sections 2103, 2104, 2105, and 2106 of the Revised Statutes, relating to the employment of attorneys and the payment of attorney fees. It will be recalled that I pointed out to the committee that this was exceedingly important, quoting the report of the members of the House Indian Committee, emphasizing the danger of legislation of this character. I furnished to the committee a reference to the document containing this report of the House Indian Committee on this subject and attention is invited to that report and especially to the part of the report which I quoted in my testimony before the committee.

8. Mr. Ballinger again attempts to make it appear that large sums of money have been wasted in administering the affairs of the Chippewa Indians. The committee will recall that I quoted the provisions of section 7 of the act of January 14, 1889 (25 Stat., 642-645), wherein the department is required to pay out moneys to the Chippewa Indians to educate them, and carry on certain administrative functions among the Chippewa Indians as required by Congress. Section 7 of said act reads as follows:

"That all money accruing from the disposal of said lands in conformity with the provisions of this act shall, after deducting all the expenses of making the census, of obtaining the cession and relinquishment, of making the removal and allotments, and of completing the surveys and appraisals, in this act provided, be placed in the Treasury of the United States to the credit of all the Chippewa Indians in the State of Minnesota as a permanent fund, which shall draw interest at the rate of 5 per cent per annum, payable annually for the period of 50 years, after the allotments provided

for in this act have been made, and which interest and permanent fund shall be expended for the benefit of said Indians in manner following: One-half of said interest shall, during the said period of 50 years, except in the cases hereinafter otherwise provided, be annually paid in cash in equal shares to the heads of families and guardians of orphan minors for their use; and one-fourth of said interest shall, during the same period and with the like exception, be annually paid in cash in equal shares per capita to all other classes of said Indians; and the remaining one-fourth of said interest shall, during the said period of 50 years, under the direction of the Secretary of the Interior, be devoted exclusively to the establishment and maintenance of a system of free schools among said Indians, in their midst and for their benefit; and at the expiration of the said 50 years, the said permanent fund shall be divided and paid to all of said Chippewa Indians, and their issue then living, in cash, in equal shares: *Provided*, That Congress may, in its discretion, from time to time, during the said period of 50 years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding 5 per cent thereof. The United States shall, for the benefit of said Indians, advance to them as such interest as aforesaid the sum of \$90,000 annually, counting from the time when the removal and allotments provided for in this act shall have been made, until such time as said permanent fund, exclusive of the deductions hereinbefore provided for, shall equal or exceed the sum of \$3,000,000, less any actual interest that may in the meantime accrue from accumulations of said permanent fund: the payments of such interest to be made yearly in advance, and, in the discretion of the Secretary of the Interior, may, as to three-fourths thereof, during the first five years be expended in procuring live stock, teams, farming implements, and seed for such of the Indians, to the extent of their shares, as are fit and desire to engage in farming, but as to the rest, in cash; and whenever said permanent fund shall exceed the sum of \$3,000,000 the United States shall be fully reimbursed out of such excess, for all the advances of interest made as herein contemplated and other expenses hereunder."

Mr. Ballinger endeavors to make it appear that because we have complied with the provisions of the laws enacted by Congress in making the cash interest payments to the Indians, in educating the Chippewa Indian children, and doing the other things required by Congress that large amounts of money have been squandered. I furnished to the committee a list of all the Indian Bureau employees in the Chippewa country, together with the salaries paid out of Chippewa funds. The attention of the committee is invited to the very low salaries paid to these employees and the comparatively small amount of money being used for salaries. We have furnished to Congress each year a report showing exactly the status of the Chippewa funds, the amounts expended, and for what purposes. The department has heretofore accounted for every dollar of funds that has been expended in the Chippewa country, and these reports are submitted to Congress annually at the beginning of the sessions of Congress.

I have also inserted in the hearings the report we submitted to Congress at the beginning of the last session of Congress, showing the expenditures of Chippewa funds during the last fiscal year and the purposes for which said funds were expended, and your attention is invited to the same, which is found in House Document 384, Sixty-sixth Congress, second session.

9. Attention is invited to my statement before the committee showing the number of day and boarding schools maintained among the Chippewa Indians, the attendance and the per capita cost. It is believed that it will be agreed by all fair-minded people that this statement shows that the schools are being administered along economical lines. We deny the statement that there are any agencies being maintained in the Chippewa country contrary to law. Attention is invited to the fact that the agencies have been reduced in number in recent years, also that the Government schools are being closed as rapidly as school facilities can be found for the Chippewa Indians in the public schools in the State of Minnesota.

10. The Indian Bureau endeavored to be very fair and liberal with the Indians represented by Mr. Ballinger as is shown by the drafts of legislation submitted to Congress by the department relating to administrative affairs among the Chippewa Indians and also the proposed legislation authorizing the Chippewa Indians to go to the Court of Claims. We have agreed before the committee on practically 90 per cent of the legislation proposed, but the Indian Bureau would be opposed to any Chippewa legislation whatever, if all the proposed amendments of Mr. Ballinger should be incorporated in the bill. I pointed out to the committee the danger of a number of the amendments proposed by Mr. Ballinger and have stated in the record the objections of the Indian Bureau to those amendments. The Indian Bureau is in favor of the legislation submitted to the House Indian Committee by the department including the minor amendments agreed to before the House Indian Committee at the recent hearing on Chippewa matters.

11. The attention of the committee is invited to the brief filed by Peter Graves, delegate of the Red Lake Band, and Daniel B. Henderson, attorney for the Red Lake Indians, which sets out in detail the views of the Red Lake Indians.

12. The Indian Bureau is in favor of winding up the affairs of the Chippewa Indian at the earliest possible date. We have endeavored repeatedly to get legislation that would authorize a per capita distribution of the funds now in the Treasury to the credit of the Chippewa Indians, but this legislation has been heretofore opposed by the members of the General Council, represented by Attorney Ballinger, and by the efforts of the General Council the Chippewa Indians were excluded from legislation recently passed by Congress authorizing the closing of the rolls and distribution of the tribal funds. In this connection, attention is invited to section 28 of the appropriation act of May 25, 1918 (39 Stat. 592) and section 1 of the Indian appropriation act of June 30, 1919 (41 Stat. 9).

Any delay, therefore, in the distribution of these funds must hereafter rest with the general council of the Chippewa Indians and Attorney Ballinger. The Indian Bureau is in favor of the distribution of these funds immediately and the winding up of the affairs generally, of the Chippewa Indians, as quickly as it can possibly be done, with due regard to the rights of all the Indians.

The CHAIRMAN. Now, Mr. Meritt, you may proceed.

Mr. McDONALD. Could I ask Mr. Ballinger just one question?

The CHAIRMAN. If Mr. Meritt is willing.

Mr. MERITT. If the question is short?

Mr. McDONALD. Is it not a fact, Mr. Ballinger, that as to the treaty of 1854 which separated the Wisconsin Indians, and the treaty of 1855, which ceded the large area you referred to, not a single Red Lake or Pembina Indian signed those treaties?

Mr. BALLINGER. The Red Lakes in 1854 were part of the Chippewas of the Mississippi and in 1855 were a part of the Chippewas of the Mississippi, and so when it was signed by the Chippewas of the Mississippi it included the Red Lakes.

The CHAIRMAN. Now that is sufficient answer.

Mr. McDONALD. I would like to ask him if it is not a fact that in the 1854 treaty it was signed by the La Pointe Band, which is Wisconsin, the Mississippi Band, giving their names, and not a single Red Lake Indian or representative is there found? Is not that true?

Mr. BALLINGER. The Red Lake Band was not in existence at that time. These Red Lake Indians derived their name from the color of the waters of Red Lake which is red.

Mr. MERITT. Mr. Chairman, Mr. Ballinger, the attorney for the Chippewa council, has with great eloquence said that he hated subterfuge. Mr. Ballinger did not point out that he made certain statements to this committee trying to make it appear that we were continuing schools up there and paying salaries in schools when in fact he knew that those schools were not actually in session and were not actually in existence, and he attempted to base his action and his remarks to this committee on an error that appeared in the report of the Commissioner of Indian Affairs. These statistics in the report of the Commissioner of Indian Affairs are prepared in the Indian Bureau by a clerk and we do not have time to go over those statistics with the greatest of care, and sometimes an error creeps into those statistics, and Mr. Ballinger took advantage of a misstatement in those statistics and tried to make it appear that we are paying out money to employees in a school where an Indian school did not exist. I am quite sure that Mr. Ballinger knew at the time he made that statement that that condition was not true.

Mr. Ballinger also tried to make it appear that I made a misstatement in regard to the citizenship of Indians where they leave reservations. If there was any subterfuge made in regard to that matter it was by Mr. Ballinger and not by me, and I want to quote the law on the subject in this record, so that nobody can question it. The law is found in the act of February 8, 1887, 24 statutes, page 390, and reads as follows:

And every Indian born within the territorial limits of the United States, to whom allotment shall have been made under the provisions of this act or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up within the said limits his residence separate and apart from any tribe of Indians therein and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States, without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property.

This legislation has been subsequently amended and is found in the act of May 8, 1906, 34 statutes, page 182, but the language is almost exactly the language as found in the law that I have just quoted. The act of May 8, 1906, on this subject reads:

Every Indian born within the territorial limits of the United States, to whom allotments shall have been made and who has received a patent in fee simple under the provisions of this act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up within said limits his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not by birth or otherwise a member of any tribe of Indians within the territorial limits of the United States, without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property.

I submit, Mr. Chairman, that legislation is exactly in line with the statement that I made to this committee.

Mr. KELLY. Will you pardon an interruption there? The specific point made was that the Indian Bureau's policy is to keep children of Indians who leave the reservation out of all distribution of the property of the tribe. Is that the policy of the bureau?

Mr. MERITT. We are following the decisions of the court on that subject. My statement was that this Indian did not lose his property right. Peter Graves's son did not lose his property right by leaving the reservation, and that statement is absolutely correct and is confirmed by the legislation that I have quoted here. But if Peter Graves's son should marry a white girl in Duluth and they should raise a family there, the children of that marriage would not be entitled to participate in the land and property of the Red Lake Indians. We have in support of that decision the Oaks case, and the man who rendered that decision is Judge Vandevanter, now on the bench of the Supreme Court of the United States, and who was formerly the solicitor of the Interior Department. In order that the committee may have accurate information on this subject I will ask that that decision be incorporated at this time. It is found in 107 Federal Reporter, 305.

(The decision referred to follows:)

OAKES ET AL. V. UNITED STATES.

[Circuit Court of Appeals, Eighth Circuit. August 2, 1909. No. 2797.]

1. Indians (sec. 13).—Right to share in tribal property: Originally the test of the right of individual Indians to share in tribal lands and other tribal property was existing membership in the tribe; but this rule has been so broadened by act March 3, 1875, c. 131, sec. 15, 18 Stat. 420 (U. S. Comp. St. 1901, p. 1419), and act February 8, 1887, c. 119, sec. 6, 24 Stat. 390, and other acts, as to place individual Indians who have abandoned tribal relations, once existing, and have adopted the customs, habits, and manners of civilized life, upon the same footing in respect of this right as though they had maintained their tribal relations.

[Ed. Note.—For other cases, see Indians, Dec. Dig., sec. 13.]

2. Indians (sec. 13).—Act January 14, 1889, relating to Chippewas in Minnesota.—Interpretation: Act January 14, 1889, c. 24, 25 Stat. 642, relating to the cession of part of the Chippewa Reservations in Minnesota and to the allotment in severalty of the remainder, does not expressly or by necessary implication displace the saving provisions of the acts of 1875 and 1887, above named, whereby individual Indians who have abandoned tribal relations, once existing, and have adopted the customs, habits, and manners of civilized life, are accorded the same right to share in tribal property as though they had maintained their tribal relations; nor does it render those provisions less applicable to the Chippewas in Minnesota than to other Indians.

[Ed. Note.—For other cases, see Indians, Dec. Dig., sec. 13.]

3. Indians (sec. 13).—Act June 7, 1897, relating to rights of children of mixed blood: Act June 7, 1897, c. 3, 30 Stat. 62, relating to the rights of children of a white man and an Indian woman, in tribal property, does not embrace the children of a mother who was living at the time of its passage and was not then recognized by the tribe as one of its members.

[Ed. Note.—For other cases, see Indians, Dec. Dig. sec. 13.]

4. Suit to enforce right to allotment—Parties—Quære: Whether in a suit against the United States under act Feb. 6, 1901, c. 217, 31 Stat. 760, to enforce a right to an allotment of specified land, which has been allotted to another Indian, a decree displacing or annulling the existing allotment lawfully can be rendered, without making the allottee a party and giving him an opportunity to defend.

(Syllabus by the Court.)

Appeal from the Circuit Court of the United States for the District of Minnesota.

Harvey S. Clapp (C. B. Miller, on the brief), for appellants.

Charles C. Hought, U. S. Atty.

Before Sanborn and Van Devanter, Circuit Judges, and Amidon, District Judge.

Van Devanter, circuit judge. By their suit commenced and prosecuted under act Feb. 6, 1901, c. 217, 31 Stat. 760, the appellants asserted that they were entitled to have allotted to them in severalty, under act January 14, 1889, c. 24, 25 Stat. 642, certain specified lands in the White Earth Indian Reservation in Minnesota, that their applications for such allotments had been unlawfully denied by the officers charged with the allotment of the lands in that reservation, and therefore that they were entitled to a decree recognizing and enforcing their rights to such allotments. Upon the final hearing the Circuit Court, being of opinion that none of the appellants came within the terms of the act of 1889, entered a decree dismissing the bill, and an appeal has brought the case here. The facts established by the proofs are as follows:

The appellants are descendants of Margaret Beaulieu, a full-blood Mississippi Chippewa, who was enrolled and recognized during all her life as a member of that tribe and was living upon the tribal reservation at White Earth at the time of her death in 1877. Jane B. Oakes, one of the appellants, is a daughter of Margaret Beaulieu, was by birth a member of the same tribe, and was enrolled and recognized as such from the time of her birth until 1849. In 1829, while she was attending a mission school, she married a Mr. Oakes, a white man, and they lived at a trading post in the Chippewa country until 1849. In that year they moved to Fort Ripley, on the Mississippi, and the next year to St. Paul, where Mr. Oakes engaged in the banking business until the time of his death in 1879. Jane B. Jones, another of the appellants, is a daughter of Mrs. Oakes, was born in the Chippewa country in 1841, and was enrolled and recognized as a member of the Mississippi Chippewa Tribe until 1849, when her parents took her to Fort Ripley and then to St. Paul. She grew to womanhood in the latter place and has been married twice, each time to a white man. Jane Andrews and Cornelia Van Etten Bent, the remaining appellants, are daughters of Mrs. Jones by her first husband. They were born and reared in St. Paul, never were enrolled or recognized as members of the tribe, and are married to white men. After the Oakes family moved to St. Paul, Mrs. Oakes and Mrs. Jones abandoned their former tribal relations, adopted the customs, habits, and manners of civilized life,

and ceased to be recognized as members of the tribe. Sometimes they exchanged visits with members of the tribe; but these visits did not occur often and were confined to relatives. The appellants were all residents of St. Paul when the act of 1889 was passed, and shortly thereafter they asserted that they were entitled to allotments thereunder. In 1894 the names of Mrs. Oakes and Mrs. Jones were placed upon a supplemental census of White Earth Mississippi Chippewas by the chairman of the commission charged with making a census and allotments under the act of 1889, and the next year their names were dropped from the census; but the circumstances in which these acts were done are not disclosed. In 1905, before applying for allotments of specific lands, Mrs. Oakes and Mrs. Jones removed to and took up their residence upon the White Earth Reservation. Whether or not Mrs. Andrews and Mrs. Bent did likewise may be left undetermined, because, if they did, it would not help them, as will be seen presently.

The White Earth Reservation was set apart as a tribal reservation for the use and occupancy of the Mississippi Chippewas under the treaty of March 19, 1867 (16 Stat. 719), and was being allotted in severalty under the act of 1889 when the appellants applied for allotments therein and when this suit was commenced. That act is entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," and provides for obtaining a cession and relinquishment by "all the different bands or tribes of Chippewa Indians in the State of Minnesota," of all their tribal reservations in that State, excepting so much of the Red Lake Reservation and of the White Earth Reservation as shall be deemed necessary "to make and fill the allotments required by this and existing acts." It further provides: That the cession and relinquishment shall be deemed sufficient as to each reservation, other than the Red Lake Reservation, if made and assented to in writing by a designated portion of "the band or tribe of Indians occupying and belonging to "such reservation, and shall be sufficient as to the Red Lake Reservation if made and assented to in like manner by a like portion of "all the Chippewa Indians in Minnesota": that, for the purpose of determining whether the requisite number of Indians participate in the cession and relinquishment and of making the allotments and payments mentioned in the act, an accurate census of "each tribe or band" shall be made; that as soon as the census shall be taken, and the cession and relinquishment shall be obtained and be approved by the President, "all of said Chippewa Indians in the State of Minnesota, except those on the Red Lake Reservation, shall * * * be removed to and take up their residence on the White Earth Reservation," and thereupon allotments in severalty shall be made to the Red Lake Indians from the unceded part of the Red Lake Reservation and to "all the other of said Indians," from the lands in the unceded part of the White Earth Reservation, such allotments to be made "in conformity with" the general allotment act of February 8, 1887 (24 Stat. 388, c. 119); that any of said Indians "residing on" any of said ceded reservations may, in his discretion, take his allotment on such reservation; and that all money accruing from the disposal of the ceded lands, after deducting expenses, shall be placed in the Treasury of the United States to the credit of "all the Chippewa Indians in Minnesota" and be used for their benefit or paid out to them in the manner and at the times stated in the act. The cession and relinquishment so provided for were obtained in the manner prescribed and were approved by the President March 4, 1890. House Ex. Doc. No. 247 (1st sess. 51st Cong.).

Originally, the test of the right of individual Indians to share in tribal lands, like the Chippewa Reservations in Minnesota, was existing membership in the tribe, and this was true of all tribal property. The question therefore arises: Is there any provision of law which broadens this original rule in a manner which is helpful to the appellants or any of them? If not, their effort to obtain allotments from tribal lands, must fail, because it is a necessary conclusion from the facts before recited that Mrs. Oakes and Mrs. Jones, although once members of the Mississippi Chippewa Tribe long since ceased to be such, and that Mrs. Andrews and Mrs. Bent, although possessing some Mississippi Chippewa blood, never were members of the tribe; and, if there be such a provision of law, it must be found elsewhere than in the act of 1889, for that act does not in itself alter the original rule in a manner which is helpful to any of the appellants, but contains provisions which, in the absence of some provision of law to the contrary, probably would require that the allotments mentioned therein be confined to tribal Indians.

For many years the treaties and legislation relating to the Indians proceeded largely upon the theory that the welfare of both the Indians and the whites required that the former be kept in tribal communities separated from the latter, and, while that policy prevailed, effect was given to the original rule respecting the right to share in tribal property; but Congress later adopted the policy of encouraging individual Indians to abandon their tribal relations and to adopt the customs, habits, and manners of civilized life, and, as an incident to this change in policy, statutes were enacted

declaring that the right to share in tribal property should not be impaired or affected by such a severance of tribal relations, whether occurring theretofore or thereafter. One of the earlier acts upon the subject was that of March 3, 1865 (13 Stat. 562, c. 127, sec. 4), which gave to certain chiefs, warriors, and heads of families of the Stockbridge Munsee Tribe the right to become citizens of the United States, upon their dissolving all tribal relations, adopting the habits of civilized life, becoming self-supporting, and learning to read and speak the English language, and then declared that they should not be deprived thereby of the annuities to which they were or might be entitled. That act and others of its kind marked the beginning of the change and were followed by the act of March 3, 1875 (18 Stat. 42, c. 131, sec. 15 [U. S. Comp. St. 1901, p. 1419]), which extends the benefits of the homestead law to "any Indian born in the United States, who is the head of a family, or who has arrived at the age of 21 years, and who has abandoned, or may hereafter abandon his tribal relations," and then declares that:

"Any such Indian shall be entitled to his distributive share of all annuities, tribal funds, lands, and other property, the same as though he had maintained his tribal relations."

And next came act February 8, 1887, c. 119, 24 Stat. 388, which, in its sixth section, provides:

"And every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States, without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property."

Another cognate provision is found in act August 9, 1888, c. 818, 25 Stat. 392, which declares that a tribal Indian woman "hereafter" marrying a citizen of the United States shall become thereby a citizen of the United States, with all the rights, privileges, and immunities of such a citizen, without impairing or in any way affecting her right to any tribal property or any interest therein.

These acts disclose a settled and persistent purpose on the part of Congress so to broaden the original rule respecting the right to share in tribal property as to place individual Indians who have abandoned tribal relations, once existing, and have adopted the customs, habits, and manners of civilized life, upon the same footing, in that regard, as though they had maintained their tribal relations. Not only this, but these acts, omitting that of 1865, are general and continuing in their nature, and therefore are as applicable to the Chippewas in Minnesota as to other Indians, unless the act of 1889 discloses, either expressly or by necessary implication, that Congress intended otherwise. In our opinion that act does not thus disclose such an intention. True, it speaks of the Indians concerned as "bands or tribes," provides that all, save those on the Red Lake Reservation, "shall * * * be removed" to the White Earth Reservation, and is entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota"; but the inference sought to be drawn therefrom, namely, that only tribal and uncivilized Indians are to have the benefits of the act, is materially weakened when we turn to other provisions, such as those directing that enough lands be withheld from the contemplated cession "to make and fill the allotments required by this and existing acts," and that the allotments be made "in conformity with" the act of February 8, 1887, which expressly recognizes the right of individual Indians, who have abandoned their tribal relations and have adopted the customs, habits, and manners of civilized life, to share in tribal property. An inference of such uncertain strength is not enough to overcome the general aversion to repeals by implication, especially where a settled policy in legislation is involved and no reason for disturbing it is apparent. *United States v. Gear*, 3 How. 120, 130, 11 L. Ed. 523; *Frost v. Wenie*, 157 U. S. 46, 58, 15 Sup. Ct. 532, 39 L. Ed. 614; *United States v. Healey*, 160 U. S. 136, 146, 16 Sup. Ct. 247, 40 L. Ed. 369; *United States v. Greathouse*, 166 U. S. 601, 605, 17 Sup. Ct. 701, 41 L. Ed. 1130; *McChoral v. Louisville, etc., Co.*, 183 U. S. 483, 500, 22 Sup. Ct. 165, 46 L. Ed. 289; *Great Northern Ry. Co. v. United States*, 84 C. C. A. 93, 109, 155, Fed. 945, 961.

We conclude that Mrs. Oakes and Mrs. Jones, who formerly were members of the tribe, are within the saving provisions of the acts of March 3, 1875, and February 8, 1887, and so are entitled to share in the allotment and distribution of the tribal property, the same as though they had maintained their tribal relations, but that Mrs. Andrews and Mrs. Bent, who never were members of the tribe, can not derive any benefit from any of the acts mentioned; and we reach this conclusion with

greater satisfaction. Because it is in accord with rulings of the Secretary of the Interior in cases which are not distinguishable from this. William Banks, 26 Land Dec. Dep. Int. 71; Minnie H. Sparks, 36 Land Dec. Dep. Int. 234.

In support of the claims of Mrs. Andrews and Mrs. Bent, our attention is invited to the still later act of June 7, 1897 (30 Stat. 90, c. 3, sec. 1), which reads as follows:

"All children born of a marriage heretofore solemnized between a white man and an Indian woman, by blood and not by adoption, where said Indian woman is at this time, or was at the time of her death, recognized by the tribe shall have the same rights and privileges to the property of the tribe to which the mother belongs, or belonged at the time of her death, by blood, as any other member of the tribe, and no prior act of Congress shall be construed as to debar such child of such right."

But of this act it is enough to say that its terms are such that it does not embrace the children of a mother, such as Mrs. Jones, who was living at the time of its passage and was not then recognized by the tribe as one of its members.

As a defense to the claims of Mrs. Oakes and Mrs. Jones, it is alleged that all of the land selected by the former and a part of that selected by the latter has been "duly allotted" to other Indians; but, as this defense was not passed upon by the circuit court, and as the record indicates that the evidence bearing thereon is not as full and clear as it might be, we deem it the better course to leave the matter open to further consideration in the circuit court. And it is suggested, without indicating any conclusion thereon, that a question has arisen as to whether a decree displacing or annulling the existing allotments to other Indians lawfully can be rendered unless the allottees be made parties and be given an opportunity to defend. *United States v. Fairbanks* (decided by this court June 3, 1909), 171 Fed. 337; *Minnesota v. Hitchcock*, 185 U. S. 373, 387, 22 Sup. Ct. 650, 46 L. Ed. 954.

In the answer it is also alleged that part of the land selected by Mrs. Jones has been specially set apart for allotment to Indians who may be removed from the Mille Lac Reservation; but no proof of any such setting apart or of any authority therefor is contained in the record, and no mention thereof is made in the Government's brief, so this defense must be regarded as abandoned.

Following what has been said, the decree of the circuit court is affirmed in so far as it dismisses the bill as to Mrs. Andrews and Mrs. Bent, and in other respects it is reversed, with directions for further proceedings not inconsistent with the views expressed herein.

Mr. MERITT. Now, Mr. Chairman, leaving that subject, I want to call your attention to some other misrepresentations that have been made to this committee, some subterfuges, if you please.

They tried to make it appear that the Interior Department was responsible for the act of 1906, known as the Clapp amendment, and the amendment of 1907, which resulted in the White Earth Indians being robbed outrageously of their lands and of their timber. Mr. Chairman, anyone who knows the history of that legislation knows that that is an absolute misrepresentation of fact—and when I make that statement it is a very mild characterization.

They also attempted to make it appear that we initiated the act of 1904, when in fact we showed that the Members of Congress, the Senators, and the Representatives, petitioned the department in regard to this cession, which resulted in the agreement of 1904 with the Red Lake Indians, and which resulted in the Steenerson Act. If you want to know the history of the Steenerson Act, ask Mr. Steenerson himself, who is now in Congress and who represents that district; and if you want to know what people are trying to pull off here in regard to this Chippewa matter, ask Mr. Steenerson himself, because he knows not only what they are trying to do but what they have done in the past.

They also tried to make it appear that the Interior Department initiated the legislation of 1916. More subterfuge, if you please. They can stand up here with great eloquence and with mock earnestness and talk about subterfuge, when in fact they are the men who are practicing the subterfuge on this committee. The Interior

Department did not initiate the act of 1916, and anyone who knows the history of that legislation knows that that statement is absolutely false. That legislation was initiated by Representatives in Congress from Minnesota. And gentlemen of the committee, in connection with these acts of 1904 and 1916, where Congress has specifically recognized the right of the Red Lake Indians to the Red Lake Reservation, we must remember that Congress is twice on record as recognizing the rights of the Red Lake Indians to the entire reservation; whereas Congress is not specifically on record in regard to the other Indians owning part of the reservation.

It has been clearly pointed out here that the commissioners who negotiated the agreement of 1889 promised the Red Lake Indians that the Red Lake Reservation should belong exclusively to the Red Lake Indians, and I have placed in the record here a statement by the Chippewa Commission to the Red Lake Indians at the time the negotiations were being carried out.

They also tried to make it appear that the legislation required us to make allotments on the Red Lake Reservation; that we were directed by Congress to make these allotments; whereas the legislation, if you read it carefully, does not contain any such provisions. The legislation says "when practicable" we shall make allotments on the Red Lake Reservation, and I have pointed out that it is absolutely impracticable to make allotments at this time on the Red Lake Reservation, and it will be impracticable to make those allotments until that timber is sold and until that land is drained.

The gentleman says that they are here trying to do something for the Red Lake Indians. Mr. Chairman, it would have been better if they had said that they were here trying to do something to the Red Lake Indians, but we do not propose that they shall do it. The Red Lake Indians themselves are here protesting against the action of these men who are trying to get this reservation allotted. Why? Because it will result in harm to the Red Lake Indians and benefit to the men who are trying to get this legislation.

I have throughout this discussion refused to name names or to indulge in personalities, but I want to tell this committee now and here that if this legislation that these gentlemen want is enacted it will result in robbing the Red Lake Indians and putting money into the pockets of men who are trying to get this legislation enacted. Why? Because some of the men right in this room to-day own trading stores on the Red Lake reservation and possess fortunes. If that reservation is allotted and restrictions are removed on that land they can and would acquire the property of the Red Lake Indians; we are trying to protect the Red Lake Indians from being robbed. We do not want a repetition of the White Earth scandals, and we are going to do everything within our power to prevent that being done, and if it is necessary to use plain language before the committee of Congress, we will use that plain language when the time is opportune.

Why, Mr. Chairman, I am told by a lawyer in this room that Mr. Ballinger and some Indians went before a committee recently, on Saturday, in connection with the drainage proposition of the Red Lake Indians, and represented before that committee that they were there representing the Red Lake Indians and were opposing the draining of the Red Lake Reservation.

Mr. BALLINGER. Mr. Chairman, that kind of a statement ought not to be made.

Mr. MERITT. I have as my authority Attorney McDonald in this room, who made the statement to me.

Mr. BALLINGER. Did you state that I or any person in connection with the general council went before the Drainage Committee last Saturday or any other time?

Mr. McDONALD. I have as my authority a Congressman who stated that you were there Saturday afternoon and that you represented the Red Lake Indians.

Mr. BALLINGER. Mr. Chairman, we were there as onlookers. Not one word was said to the committee either as to who we represented or what our views were.

Mr. McDONALD. The representation must have been made to the Congressman because he certainly would not make the statement otherwise.

Mr. MERITT. Now, Mr. Chairman, I am willing to compare the conditions of the Red Lake Indians to-day with the condition of the White Earth Indians. The Red Lake Indians own all of their reservation. They own all of their timber. Eighty per cent of the White Earth Indians have been robbed of their entire property. To-day 80 per cent of the White Earth Indians do not possess any land or timber; yet we have these White Earth Indians here trying to control the conditions on the Red Lake Reservation; trying to bring about the same conditions on the Red Lake Reservation that have been brought about on the White Earth Reservation, and we don't propose that those conditions shall be brought about. We propose to protect the property of the Red Lake Indians and see that the Red Lake Indians get their property.

The CHAIRMAN. Now, Mr. Meritt, you have had your 15 minutes and the time for adjournment has arrived, and I desire to say that it is the intention, if agreeable to the other members of the committee, to have what we might call an executive session to-morrow on the bill, and we would be glad to have Mr. Ballinger and Mr. Henderson and Mr. Meritt here at the time.

Mr. MERITT. Mr. Chairman, may I make a statement in regard to that? We have several delegations of Indians here who are very anxious to be heard. We have the Crow Indians who would like very much to be heard to-morrow on the Crow bill, so that they can go home, and it will only take a very short time. We have agreed on the legislation. There is no controversy. They ask for certain amendments which are agreeable to us.

The CHAIRMAN. Is that the bill which goes to the Court of Claims?

Mr. MERITT. No, sir; it is a bill that has passed the Senate, and is now pending on the calendar of the House.

The CHAIRMAN. You want to have that heard here in the morning?

Mr. MERITT. We would like to have that heard to-morrow. And before we go into this Chippewa bill, Mr. Chairman, I would like to have an opportunity, in the light of this hearing, to go over that bill very carefully before we attempt to discuss it with the committee.

The CHAIRMAN. Is it your intention to be here several days, Mr. Henderson?

Mr. HENDERSON. I am here all the time, Mr. Chairman.

Mr. BALLINGER. Mr. Chairman, the gentlemen that I represent are very busy men. They are men of considerable affairs and they want to get through with this as soon as they can.

The CHAIRMAN. Well, this is a very busy committee too, and we have some other duties to perform besides holding hearings upon one question all the time. There are a number of others who want to be heard.

Mr. MERITT. The Crow Indians have been here several days anxiously waiting to be heard.

The CHAIRMAN. I think we can hear the Crow Indians to-morrow morning and then give up the balance of the day for you men to study the bill and be prepared the next day to come in and go through the bill with us.

Mr. BALLINGER. We are ready right now.

The CHAIRMAN. Then we will leave it that way, the Crow matter to be heard in the morning.

Mr. RHODES. Mr. Chairman, what about filing a brief or supplemental statement? Do you want to fix any time for that?

The CHAIRMAN. I think we ought to give them 10 days for that.

Mr. RHODES. I think it might be well to state the time.

The CHAIRMAN. If that is agreeable to all the attorneys, we will fix the time 10 days from to-day in which the briefs may be filed, so that they may be put into the record before it is printed.

Mr. BALLINGER. Mr. Chairman, can't these parties who desire to file their briefs and who are making complaint file theirs, say, within seven days and then we will have three days to look those over and file anything we want to in answer?

Mr. RHODES. I think that is a thing that is practical.

Mr. McDONALD. If the chairman please, it will take me three days to get home and three days to get that mail back here.

Mr. RHODES. Suppose we make it 10 days to file briefs and 5 days in which to reply, making it 15 days in all.

Mr. McDONALD. That is satisfactory.

The CHAIRMAN. That is all right. There is no great hurry about this matter.

The committee will stand adjourned until to-morrow morning at 10.30, at which time we will take up the hearings on the Crow bill.

(Whereupon, at 1.30 o'clock p. m., the committee adjourned until 10.30 o'clock a. m., Wednesday, March 17, 1920.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Thursday, March 18, 1920.

The committee met at 10.30 o'clock a. m., Hon. Homer P. Snyder (chairman) presiding. Present: Mr. E. B. Meritt, Assistant Commissioner of Indian Affairs; Mr. Webster Ballinger, representing Chippewa Indians; and Mr. Daniel W. Henderson, representing Red Lake Indians.

The CHAIRMAN. Gentlemen, the committee will come to order. The session to-day is a semiexecutive session with the lawyers representing the different factions and the Assistant Commissioner of Indian Affairs, and it is the wish of the chairman, and I think the

members of the committee, since we have had so much argument on the bill and have had so much information, that we should now take up the bill and have the suggested amendments pointed out, and short arguments on each one of those; not, however, with any idea of coming to a conclusion on the question at this time, but simply with the idea of getting the purport of the amendments, and then after the bill has been amended, my thought would be to have each one of the attorneys and the assistant commissioner make a statement with regard to the whole measure as to how it will operate over the whole situation.

Now, if there is any objection to that suggestion and that method of operating, let us hear that first.

Mr. ELSTON. Mr. Chairman, I suggest, too, that without any introduction of matter or argument that we get right down to the points at issue so we can make it as brief and definite as possible.

The CHAIRMAN. That is exactly what I had in mind, and have the amendments pointed out and simply briefly discuss it, and see if we can go through it just the same as we did the Crow bill the other day. Then, after we have gotten all the amendments in, if some one wants to make a statement with regard to the whole measure, which, of course, has got to be concise and to the point, because we have got a big record on this thing, if the committee has no objections, we would hear that.

Mr. BALLINGER. Mr. Chairman, you limited the attendance to-day to the attorneys. Mr. Rogers is a member of the general council, is an attorney, and is here. Could he not be permitted to be present?

The CHAIRMAN. Certainly; anyone who can give us any light on the question, if we want it, but we do not want any argument from anybody to-day except those who are here for the purpose.

Mr. HENDERSON. Mr. Chairman, in that connection I would like to say that I have been so recently employed in this matter and we have here representing the Red Lake Indians just one delegate who is so well informed, and I think will be of as much service as any man.

The CHAIRMAN. He can be of service to you, but we are not going to listen to any extraneous proposition. We want the advice of the attorney now and the counselor at law, so that if we get any information it is not going to be a lengthy discussion of something that has already been up.

Mr. BALLINGER. Mr. Chairman, as the general council is offering amendments shall I proceed?

The CHAIRMAN. Well, I think that would be in order. My idea is that you and the commissioner here are the main parties to be heard, and I think it would be wise for Mr. Ballinger to present his amendments and make his statement, and then let Mr. Meritt answer for the rest.

Mr. KELLY. I think that is the proper idea.

Mr. BALLINGER. Mr. Commissioner, merely a suggestion, so that the record may be complete, if you will permit me to insert—I have in typewriting the amendments desired, and if you will permit them to be inserted in the record at this point, then I will take them up in their order.

The CHAIRMAN. Why not put them in one at a time as we go along with the bill?

Mr. ELSTON. We had better put them in first so that we can read them all together.

The CHAIRMAN. All right; we will do that.

(The paper referred to follows:)

AMENDMENTS PROPOSED BY THE GENERAL COUNCIL TO THE COMMITTEE PRINT OF
DEPARTMENTAL DRAFT ADMINISTRATIVE BILL.

Page 1. Strike out the title and insert in lieu thereof the following: "To wind up the affairs of the Chippewa Indians of Minnesota." Line 5, after the words "and one by the", insert the words "executive committee", and in line 6, reinstate the first two words, viz: "of the".

Page 2. Lines 19, 20, and 21, reinstate the words stricken out. Lines 23, 24, and 25, reinstate the matter stricken out, with the following changes: Line 23, after the word "enrolled", insert the words "and allotted" Line 23, after the word "shall", insert the word "also". Line 24, strike out the word "residing" and insert in lieu thereof the word "belonging" Line 25, after the word "and", and before the word "allotted", insert the word "not".

Page 4. Line 15, after the word "incompetent", insert the word "allotted". Lines 20, 21, and 22, strike out the following words "except the Chippewas residing on and belonging to the Red Lake Reservation".

Page 5. Commencing with the word "that", in line 8, reinstate the matter stricken out in lines 8, 9, and 10.

Page 6. Line 6, reinstate the word "forthwith".

Page 10. Line 9, reinstate the words "together with the accrued interest". Line 10, change the word "minor" to "adult". Lines 11 and 12, strike out the words in italics, viz: "upon his attaining his or her majority" Line 14, strike out the word "of". Line 22, reinstate the word "shall". Line 23, strike out the word in italics, viz: "may".

Page 11. Line 2, after the word "child", insert "either of". Line 2, strike out the words "parent or". Line 19, after the word "all", insert "merchantable". Commencing with the word "which", in line 21, strike out the remainder of that line and all of lines 22, 23, and down to and including the figures "400", in line 24. Line 25, reinstate the matter stricken out.

Page 12. Commencing with the word "except", in line 1, strike out the remainder of that line, all of line 2, and down to and including the word "reserve", in line 3. Line 6, strike out the words "said amendatory", and insert in lieu thereof the word "the" Line 7, after the figures "1902" and before the colon, insert "(32 Statutes at Large, page 400)". Line 17, reinstate the words stricken out, viz: "and undisposed of". Lines 17 and 18, strike out the words in italics, viz: "and not included in any reserve and not disposed of" Line 23, strike out the word "designated", and insert the word "appointed".

Page 12. Line 24, after the word "the" and before the words "general council," insert "the executive committee of the." Line 25, strike out the words "and appointed by the Secretary of the Interior."

Page 13. Line 2, after the word "land" insert the words "including any timber thereon."

Page 14. At the end of line 8, insert the following: "*Provided*. That the Secretary of the Interior may dispose of so much of Cooper or Star Island in Cass Lake and so much of the land bordering on the eastern, southeastern, and southern shores of Cass Lake, and commonly known as Norway Beach, and the lands adjoining the western shores of Pine Point on Leech Lake and the standing timber thereon as remains undisposed of, in tracts of limited areas for permanent or summer homes, hotels, or resorts under regulations to be prescribed by the said Secretary and approved by the executive committee of the Chippewa General Council." Line 15, after the word "fund" change the semicolon to a comma and reinstate the matter stricken out in lines 15, 16, 17, 18, and 19.

Page 15. Line 1, after the word "upon" insert the following: "and with the approval of the executive committee of the general council." Line 2, reinstate the words stricken out, viz: "or all" and after the word "all" insert the words "school equipment." Line 3, before the word "and" insert the words "used for school purposes." Line 4, after the word "Indians" insert the following: "Any school property not turned over to the State and remaining undisposed of shall be sold under the direction of the Secretary of the Interior for the best price obtainable."

Page 16. Line 15, strike out the words in italics and reinstate the words stricken out in lines 15 and 16. Line 17, strike out the words in italic and reinstate the word stricken out. Line 17, after the word "and" insert "in his discretion other."

Page 17. Line 9, before the words "general council" insert the words "executive committee of the."

Page 18. Line 24, after the words "public school" insert the words "and park."

Page 19. Reinstate section 5, with the following amendments: Line 8, strike out the word "at." Line 9, strike out the words "Bemidji, Minnesota." Line 9, after the word "beginning" strike out the word and figure "July 8." Line 9, after the word "beginning" insert the following: "on the second Tuesday in July of" so that it will read as amended: "to be held annually, beginning on the second Tuesday in July of each year, pursuant to the constitution of the general council." Line 17, strike out the word "such" and insert in lieu thereof the word "so."

Page 20. Reinstate lines 1 and 2.

Pages 26, 27, and 28. Change section 5 to section 6.

Page 28. Change section 6 to section 7. Include section 8. Strike out lines 11, 12, 13, and 14. Include section 9. Lines 20, 21, 22, 23, and 24, reinstate the matter stricken out. Lines 24 and 25, strike out the words in italic.

Page 29. Strike out the words in italic in lines 1, 2, and 3 down to and including the word "expenses." Add H. R. 12972 as additional sections, renumbering sections.

Page 1. Renumber section 1 as section 10.

Page 2. Change section 2 to section 11. Line 19, after the word "thereof" insert the following: "and lawfully chargeable against said tribe or any band thereof." Line 22, after the word "amendment" insert the words "at any time during the progress of the suit."

Page 3. Line 11, strike out the words "for the purpose of making" and insert in lieu thereof the words "and shall furnish such certified." Line 11, after the word "thereof" insert the words "free of cost." Renumber section 3 as section 12.

Page 4. Renumber section 4 as section 13. Lines 8 and 9, strike out the words "under contract or contracts made and approved as provided by existing law" and insert in lieu thereof the words "by their general council." Renumber section 5 as section 14. In line 22, strike out the word "or" and insert the word "and." Line 23, after the word "Chippewas" insert "which shall include all the Chippewa Indians residing on and belonging to said reservation."

Page 5. Line 5, after the word "Band" insert the following: "The court shall also determine the ownership of any funds that may hereafter be derived from the sale and disposition of any of the property on the Red Lake Reservation, and all funds now in hand and that may hereafter accrue from the disposition of any such property on the Red Lake Reservation shall be held subject to the final determination of the case and shall then be disbursed in strict conformity with the decree of said court." Line 13, after the word "States" strike out the word "or" and insert "and." Line 20, strike out the words "for the purpose of making" and insert in lieu thereof the words "and shall furnish such." Line 21, after the word "thereof" insert the words "free of cost."

Page 6. Line 8, after the word "made" insert the words "if the Indians residing on and belonging to the Red Lake Reservation are successful." Line 10, strike out the period after the word "suit" and insert a comma and add the following: "and if said Red Lake Indians are unsuccessful said \$5,000 and expenses shall be paid out of the Public Treasury to be reimbursed out of any funds to which the individual member of said band may be entitled before any further payments out of the tribal property shall be made to any of the members of said bands;" Line 17, after the word "the" insert the following: "General Council of the Chippewa Indians of Minnesota to represent the." Lines 17 and 18, strike out the words "under contract or contracts made and approved as provided by existing law." Renumber section 6 as section 15.

Page 7. Line 5, after the parenthesis following the figures "642" insert the following: "or to which the Indian title had not been lawfully extinguished by cession." Line 5, strike out the word "subsequently." Lines 18, 19, 20, 21, 22, and 23, strike out the words "under rules and regulations to be prescribed by the Secretary of the Interior; and the proceeds derived from the sale of such lands shall similarly be deposited in the Treasury of the United States in the principal fund of said Chippewa Indians" and insert in lieu thereof the following: "as provided in section 2 of this Act." Line 25, strike out the words "under existing."

Page 8. Strike out all of lines 1 and 2. Line 14, strike out the period and insert a comma and add the following: "and shall furnish copies of any such letters, papers, documents, and public records as said attorneys may desire for use in said case free of cost." Add the following as section 16:

"Sec. 16. This Act shall become effective and binding upon the Chippewa Indians of Minnesota when ratified and accepted by a majority of their general council, the members of which shall be selected at an election held subsequent to the approval of this Act under the supervision of the Secretary of the Interior, but said supervision shall extend no further than to see that every male adult member of the said tribe over 18 years of age is freely permitted to participate in said elections and that this vote is properly recorded; and that the votes cast in the general council are properly recorded. Without such acceptance and ratification this Act shall be inoperative."

Mr. BALLINGER. Mr. Chairman, we will take, as I understand it, as the basis of the legislation, the committee print of the legislative bill.

The first amendment suggested is on page 1, in the title. The title of the bill as it stands is:

A bill to wind up the Affairs of the Chippewa Indians of Minnesota.

The general council suggests in lieu of that this title:

A bill for the preparation of additional rolls, allotments of lands, disposition of the lands and funds of the Chippewa Indians of Minnesota, and for other purposes.

That is the object and purpose of the legislation, and they suggest that it would be a more appropriate title.

The CHAIRMAN. Is there any objection to that, Mr. Meritt?

Mr. MERITT. Except that the title now in the bill more clearly defines the scope of the proposed legislation contained in the bill. We have no serious objection as to what title is given to the bill, but really I think that the present title is preferable to the title suggested.

The CHAIRMAN. Very well, we will pass that.

Mr. HENDERSON. May I have just a word, Mr. Chairman, on that? I think that question concerns the Red Lake Indians directly, and the disposition made by this committee of the Red Lake Indian section would have some effect upon ascertaining and determining whether that was a proper title or not. If the Red Lake Indians stay in this bill on the same footing with the others, it would be proper; otherwise——

The CHAIRMAN (interposing). What would be proper?

Mr. HENDERSON. The proposed amendment. Otherwise I should say that the present title would be more accurate.

The CHAIRMAN. We will just say then that that is passed for the present.

Mr. BALLINGER. Mr. Chairman, the second amendment is on page 1, line 5, after the words "and one by the" insert the words, "executive committee"; and in line 6 reinstate the first two words, viz: "of the." So that the provision would read as amended, commencing with line 3: "That a commission of three members, one of whom shall be appointed by the President of the United States, one by the Secretary of the Interior, and one by the executive committee of the general council of the Chippewa Indians of Minnesota." The object and purpose of that amendment is to give a workable proposition. As the bill now stands the member of the commission is to be appointed by the general council. In order to make that appointment it would be necessary to convene a general council of 120 delegates, at a cost probably to the Chippewas of \$2,500. They have an executive committee that transacts their business, and this would enable that executive committee at comparatively little cost to the tribe to designate this member of the commission.

Mr. MERITT. The reason we suggested that the words in lines 5 and 6: "President of the" be stricken out is because we thought the general council as a whole should have authority to select the representative of the Indians, rather than a select few of this general council, otherwise the inner circle of the general council would control. The general council holds a meeting annually, and this legislation probably will not pass very early at this session and they will have ample time and opportunity to select their representative on this legislation.

Mr. KELLY. Mr. Meritt, as a practical matter, even if they called the general council, it will finally come down to the executive committee anyhow to name. That is a practical thing.

Mr. MERITT. If it is left in the language we have suggested, it will be thrown open to the general council as a whole.

Mr. KELLY. It would come back to the executive committee anyhow. Then they would have the opportunity to say who would be their representative on this commission in connection with this legislation. It is the same as the theory of the House of Representatives. In theory we can name committees as a Congress. In practice we don't do anything of the kind; we have a committee that brings in the list and Congress ratifies it. It would be the same way here, even if you hold a council, the executive committee would do the same thing there anyhow.

The CHAIRMAN. Mr. Henderson, do you have anything to say on that?

Mr. HENDERSON. Mr. Chairman, again it depends on whether the Red Lake interests are excluded finally from this bill. If the Red Lake rules are not to be changed by the action of this commission and otherwise, they would have little interest in that provision; if they are to be changed, the Red Lake Indians would prefer that the matter should be open to the council rather than to an executive committee for this reason: I think it has appeared clearly to this committee since the hearings began, that there is a very grave dissatisfaction up there about the general council being truly a representative body, and this would perhaps give more delegates a chance to express their views, or more representatives of the different districts to express their views, than if it were left to a smaller body, the executive committee.

Mr. ELSTON. Now that presents the issue and I think we should just pass that.

The CHAIRMAN. We will just pass it for the present. I mean that ends it until we have an executive meeting of the committee itself to determine which of these matters we will agree upon, and how we will agree upon them. What is the next?

Mr. BALLINGER. Page 2, lines 19, 20, and 21, the council asks to have reinstated the words stricken out. The words stricken out are—and I will read back at the commencement of the sentence, in line 14:

Said commission shall immediately proceed to add to the existing allotment rolls of the Chippewa Indians of Minnesota, except the rolls of the Indians residing on and belonging to the Red Lake Reservation and not allotted, the name of any person in being at the time said roll is made and lawfully entitled to an allotment of land, under the agreements entered into with said Indians, pursuant to the provisions of the act approved January 14, 1889.

Now, that would give to them the same rights—that is, to any persons whose names are added to the roll—the same rights that those who are now on the rolls have. As it stands, that is left in doubt.

The CHAIRMAN. What have you to say to that, Mr. Meritt? The amendment is that the words be reinserted that have been stricken out, that is, the words “agreements entered into with said Indians pursuant to the provisions of the act, and so forth.” The amendment is to reinstate that.

Mr. MERITT. Mr. Chairman, the officials of the Indian Bureau, who have gone over this bill very carefully, thought that inasmuch as the act of Congress approved January 14, 1889, was the controlling act, and inasmuch as there was quite a controversy as to the meaning of the agreement, and as the act had been carefully interpreted, we thought it would be better to have reference only to the act of Congress.

The CHAIRMAN. And not go back of that?

Mr. MERITT. Yes, sir.

Mr. KELLY. Is there not as great disagreement in the act itself, brought out at this hearing, as there is in the agreement?

Mr. MERITT. No, sir; but there is a great disagreement as to the agreement, and the meaning of the agreement, and the language used by the commissioners and the Indians in negotiating the agreement.

Mr. ELSTON. Is it the intention, by striking out the reference to the agreement here, to disregard that entirely and then to act under the act of 1889 in any way that you choose, without reference to any agreement entered into?

Mr. MERITT. No, sir; but in order not to confuse the matter, and inasmuch as Congress has passed the act of January 14, 1889, we thought that that was what we here had referred to in this matter.

The CHAIRMAN. In other words, as I see it, you want an objective. You want something to work to. You want something that is definite to work to. If you let that go in the other way, they can go back to the days of Columbus.

Mr. MERITT. There would be great confusion.

Mr. BALLINGER. Right on that point I want to clear your mind. The act of 1889 was ratified without change or modification by the Indians, and the object of this is to designate it as an agreement, which it was both in law and in fact, instead of an act of Congress.

The CHAIRMAN. Then why is it necessary to fix it so that you can go back?

Mr. BALLINGER. No; there is no object here to go back. There is no such intention, but it is to designate it as an agreement, which it was, instead of a law of Congress.

Mr. RHODES. Mr. Chairman, here is the idea of the department—it seems to me it is well taken—no agreements certainly were ever effective and should not have been effective, except such agreements as were justified by the act of January 14, 1889, and it is clear to my mind that the intention of the department is to conform to the provisions of this act, and not enlarge upon the scope or purview of that act by simply extending it so as to apply to any subsequent agreement that might have been made.

Mr. ELSTON. But it says here: “Agreements pursuant to the act,” and restricts any agreements that may be considered in this matter

to agreements made in pursuance of the act. Now, of course, that would throw back to the bureau the interpretation of the agreements, and the selection of only such agreements as are made pursuant to the act, and in that decision they would disregard anything that they thought had not been legally entered into as not binding. They would still have the right to disregard informal agreements or agreements which they thought had not been made in conformity with the act and not legally executed. I think we understand it now.

Mr. RHODES. But after all, those agreements could have been made and not now recognized as those consistent with the provisions of the act?

Mr. ELSTON. Yes; that is true. We have got an issue now, Mr. Chairman, and I think what the committee can do is this: We have got a clear definition of the issue and just what is wanted; now I think if we don't go too far afield——

The CHAIRMAN (interposing). That is just what I want to do; let us see if we can get the understanding of these attorneys, and the commissioner, and then we will do all this discussing when it comes to making up the bill.

Mr. BALLINGER. May I say just one word on that?

The CHAIRMAN. Just one. Now make your statement when you present your amendment, then don't attempt to subsequently talk half an hour on each one, because we will not get through with this thing in a month.

Mr. BALLINGER. The act of January 14, 1889, did not become effective unless ratified by the Indians, and so the ratification constituted an agreement and not a law of Congress; and therefore we are asking that the agreement be used as the basis, which was in fact the basis, instead of the law.

Mr. ELSTON. It amounts to the same thing, Mr. Ballinger.

The CHAIRMAN. Mr. Meritt, have you anything further to say on that?

Mr. MERITT. I have this to say, Mr. Chairman, that if the change that Mr. Ballinger suggests is incorporated in the bill, it will lay the foundation for a large claim against the Government of the United States.

The CHAIRMAN. All right; have you anything to say, Mr. Henderson?

Mr. HENDERSON. I would rather reserve, if I may, Mr. Chairman, whatever I have to say on this point until later in the discussion.

Mr. ELSTON. Do I understand here that the reservation in line 17, excluding the Red Lake Reservation Indians from this allotment matter is agreed to all around? There is a reference here—"and except the rolls of the Indians residing on and belonging to the Red Lake Reservation and not allotted." That seems to have been passed without any comment here. I don't know your idea upon that.

The CHAIRMAN. Whatever is in the bill, my understanding is has been agreed to, and if that is wrong we had better have it understood now.

Mr. MERITT. That is our understanding of the matter, Mr. Chairman.

The CHAIRMAN. All right; then proceed with the next amendment.

Mr. BALLINGER. On page 2, lines 23, 24, and 25, reinstate the matter stricken out with the following changes: In line 23, after the word "enrolled," insert the words "and allotted"; and in line 23, after the word "shall" insert the word "also"; and in line 24, strike out the word "residing" and insert in lieu thereof the word "belonging"; in line 35, after the word "and," and before the word "allotted," insert the word "not." So that the provision would read, commencing with line 22 after the figure 642:

And who had not heretofore been enrolled and allotted, and said commission shall also prepare a roll of the Chippewa Indians belonging on the Red Lake Reservation and then in being and not allotted.

Now the object and purpose of that is to get a roll, an accurate and complete roll of the Indians who reside on the Red Lake Reservation. There is no such roll as that now in existence.

The CHAIRMAN. Mr. Henderson, have you anything on that?

Mr. HENDERSON. Mr. Chairman, I don't know the facts with regard to the roll. Mr. Ballinger says that there is no such roll as that in existence. My best information is that there is a regular annuity roll there that is kept up to date year by year and is reported to the department, and that roll will disclose the names of all persons believed by the Red Lake Indians to be properly enrolled as members of the Red Lake band; but whether that be true or not, Mr. Chairman, there is no one that knows so well how to make a correct roll of the Red Lake Indians, or the Red Lake band, as the Indians themselves. The tribal council there, with the aid of the superintendent is fully competent to make a perfectly correct roll of that band, and it is hoped that before this hearing is over it will be so arranged that there will be no need for discussion of this question. In other words the Red Lake Band hopes to be so completely segregated from the rest of this legislation that it will not be necessary to discuss this question but if they are not so separated, then the Red Lake Indians most urgently request that they be excluded from this provision.

Mr. MERITT. Mr. Chairman, we are not in favor of this proposed amendment of Mr. Ballinger's, for the reason that we already have a roll of the Red Lake Indians, and for the further reason that the Red Lake Indians themselves would seriously oppose any representative of the Chippewa Council, who would undoubtedly be a White Earth Indian, having anything to do with the preparation of the rolls of the Red Lake Indians.

The CHAIRMAN. We will pass that for the present. What is the next?

Mr. BALLINGER. On page 4, line 15, after the word "incompetent," insert the word "allotted." The object of that is to make the designation of the roll properly descriptive of the roll. It is to be the roll of allotted Indians, allotted incompetent Indians.

Mr. MERITT. We have no objection to that amendment, Mr. Chairman.

The CHAIRMAN. That will be passed for the present.

Mr. BALLINGER. In lines 20, 21, and 23, strike out the following words: "Except the Chippewas residing on and belonging to the Red Lake Reservation."

The objection and purpose of that is to include the Red Lake Indians in the roll of incompetent Indians to be prepared. The

object and purpose is to segregate the competent from the incompetent and that that shall apply to all the Chippewa Indians, including the Red Lakes, so that we may know that Indians in that country are competent and what Indians are incompetent.

Mr. HENDERSON. Mr. Chairman, I do not know whether you care for a statement, because already the committee must know the position of the Red lake Indians.

The CHAIRMAN. You can simply say that your attitude with regard to that is the same as would apply to any other such proposition as that, that you are opposed.

Mr. HENDERSON. I thought that would save time.

Mr. ELSTON. You repeat the same argument that you gave before?

Mr. HENDERSON. Yes, sir.

Mr. MERITT. We are opposed to this amendment for the same reasons stated heretofore.

The CHAIRMAN. That will be passed for the present.

Mr. BALLINGER. On page 5, commencing with the word "that," in line 8, reinstate the matter stricken out in lines 8, 9, and 10. The matter stricken out which the council asks shall be reinstated is:

That said copies shall be filed as aforesaid within 30 days after the final approval of said rolls by said commission.

That relates to the filing of the rolls of the incompetent Indians in the recording offices in the State of Minnesota, so that people may know what Indians are incompetent and puts a limitation of time upon the filing of those rolls. We think it is important.

Mr. MERITT. Mr. Chairman, if you will change the 30 days to 60 days, we have no objection.

Mr. ELSTON. That seems to be reasonable.

The CHAIRMAN. That is passed.

Mr. BALLINGER. On page 6, line 6, reinstate the word "forthwith." I will read the sentence so that you gentlemen will have the meaning before you. Commencing in line 4, with the commencement of that sentence:

Within six months after the completion of said rolls, the Secretary of the Interior shall forthwith pay or cause to be paid to every such adult Chippewa Indian whose name does not appear upon said rolls as an incompetent, all funds then standing to his or her individual credit.

Now, as it stands it provides that he shall pay. The other day we had the words "as soon as practicable" in a law, and 31 years expired after that and it was not done, and we want some word here inserted that will enable these Indians, if the Secretary does not pay it to him, to go into a court and compel the payment.

Mr. MERITT. We have no objection to that.

The CHAIRMAN. You agree to that? That is passed. What is the next?

Mr. BALLINGER. On page 10, line 9, reinstate the words "together with accrued interest." Let me read now the proviso.

Mr. ELSTON. Mr. Ballinger, we have the bill before us and there is no reason to read the whole thing over.

The CHAIRMAN. But we will hear your statement on it.

Mr. BALLINGER. The object and purpose of that is to enable the Indian at the time of the payment of a part of the segregated fund to him to receive his interest on the money.

Mr. ELSTON. Instead of having the interest payment deferred?

Mr. BALLINGER. Precisely.

The CHAIRMAN. Is there anything to be said on that, Mr. Meritt?

Mr. MERITT. We have no objection to that amendment.

The CHAIRMAN. That is passed for the present.

Mr. BALLINGER. In line 10 change the word "minor" to "adult." The bureau evidently made a mistake in inserting the word "minor," because the intent of that provision is to pay the money to the adults.

Mr. MERITT. We have no objection to that amendment.

The CHAIRMAN. That is passed for the present.

Mr. BALLINGER. Lines 11 and 12, strike out the words in italics, viz, "upon his attaining his or her majority."

The CHAIRMAN. That is all right.

Mr. ELSTON. The word "adult" would import the attainment of majority.

Mr. BALLINGER. Certainly.

Mr. MERITT. That is all right.

Mr. BALLINGER. In line 14, strike out the word "of"—line 14, page 10—"at the expiration of the tenth year the total sum."

Mr. MERITT. We have no objection to that.

The CHAIRMAN. That is passed.

Mr. BALLINGER. In line 22 reinstate the word "shall."

The CHAIRMAN. And strike out the word "may"?

Mr. BALLINGER. Yes, sir. And in line 23 strike out the word "may."

Mr. ELSTON. Now, I don't know—that would leave a discretion in the commissioner, and if it is mandatory that he should pay it to any kind of minor or any kind of guardian, it might be a very unhappy thing. I can conceive of parents that would be no more worthy of receiving the money immediately—I am just suggesting this now offhand; I don't know what the objection of the department may be.

Mr. BALLINGER. I call attention to the fact that there is a further provision in this bill to enable the commissioner to withhold any funds from parents where proper use is not being made of them.

Mr. ELSTON. That means the money is already given to them. There is a contradiction there.

Mr. BALLINGER. That is future payments. The future payments can be withheld.

Mr. RHODES. I think the condition will be this: If the parent is a competent person to receive it, he should receive it; if not, some court or tribunal should designate the proper person and let that person receive it instead of allowing the fund to be retained in the department.

The CHAIRMAN. I am quite in favor of the word "shall," but very much opposed to the words "shall not."

Mr. ELSTON. Well, let us get the statement on that and then pass it.

Mr. MERITT. Mr. Elston has stated the position of the department in that matter. There may be a few cases where it would be undesirable to pay out this money to the parent or legal guardian; and in order to meet that situation we thought it better to have the word "may" rather than the compulsory word "shall."

The CHAIRMAN. We will pass that for the present.

Mr. BALLINGER. On page 11, line 2, after the word "child" insert "either of."

In line 2, strike out the words, "parent or." So that the provision would read:

And should any such minor child, either of whose parents are not enrolled as incompetents.

Mr. MERITT. We favor that amendment.

The CHAIRMAN. That is passed for the present.

Mr. BALLINGER. In line 19, after the word "all" insert "merchantable."

The object and purpose of that is to enable them to cut and dispose of all merchantable timber without denuding the land of all timber on it.

Mr. MERITT. There is no objection to that amendment, Mr. Chairman.

The CHAIRMAN. That is passed.

Mr. BALLINGER. Commencing with the word "which" in line 21, page 11, strike out the remainder of that line and all of lines 22, 23, and down to and including the figures "400" in line 24. The provision as drafted by the department is involved, and the object and purpose of this provision is to permit the sale of all the lands in or outside of reservations. As drafted by the department it would include only a part of them.

Mr. ELSTON. Well, without the qualifying reference to these acts it would then have the effect of canceling all previous acts and giving a blanket authority to dispose of all the timber.

Mr. MERITT. Except that that has already been disposed of under contract.

Mr. ELSTON. Of course, that would be a legal limitation. No act could interfere with any agreement already made. We can not refuse to sell something that has already been sold.

The CHAIRMAN. Let us see what Mr. Meritt has to say about that.

Mr. MERITT. We wanted this legislation tied up, as it were, with previous legislation enacted by Congress, and for the reasons stated by Mr. Elston we thought that language should remain in the bill.

The CHAIRMAN. That is passed for the present, unless Mr. Henderson has something he wants to say about it.

Mr. HENDERSON. I have not.

Mr. BALLINGER. Mr. Chairman, that is a very important thing to the committee, and when you come to take it up you will want to know about it. The lands that were classified as pine lands up there—and those will be the only lands here included under the provision as drafted by the department—did not include much of the valuable stands of timber in that country. Upon this swamp land that is to come back there are just as valuable stands of timber as upon the lands classified as pine lands, and this provision ought to be broad enough to enable the disposition of that timber.

The CHAIRMAN. I agree with you.

Mr. MERITT. We would have no objection to that language including swamp lands recovered—such language as you desire.

Mr. BALLINGER. You will see when you come to examine this section in committee that is is an unworkable proposition as presented by the department.

The CHAIRMAN. That is passed for the present.

Mr. BALLINGER. In line 25, page 11, reinstate the words stricken out, "belonging to the Chippewas"; and then, on page 12, commence

ing with the word "except" in line 1, strike out the remainder of that line, all of line 2, and down to and including the word "reserve" in line 3. And let me make another amendment or two here, and then I want to read it to you as amended.

In line 6, strike out the words "said amendatory" and insert in lieu thereof the word "the."

In line 7, after the figures "1902" and before the colon, insert "Thirty-second Statutes at Large, page 400)."

Now, if you will permit me to read the text as amended:

That as compensation for losses sustained by the Chippewa Indians in Minnesota for the failure to sell and dispose of lands ceded to the United States in trust under the provisions of the act of January 14, 1899, and subsequently included in forest and other reserves, contrary to the intent of said act, the Secretary of the Interior is hereby directed to proceed and dispose of all merchantable timber on any such lands remaining undisposed of, including the timber on any or all of said lands, belonging to the Chippewas, and within the limits of any Indian reservation; said timber to be sold under rules and regulations to be prescribed by the Secretary of the Interior, which shall conform, as far as practicable, to the provisions of the act of June 27, 1902 (32 Stat. L., p. 400).

The CHAIRMAN. Is there anything further to be said upon that?

Mr. MERITT. Mr. Chairman, we are agreeable to the amendment in line 19, page 11, inserting the word "merchantable." We are opposed to striking out the language in lines 21 to 24, reading as follows:

which were classified as pine lands under the said act of January 14, 1899, and the amendatory act of June 27, 1902 (32 Stat. L., p. 400).

We have no objection to restoring the language in line 25, "belonging to the Chippewas."

We object seriously to striking out the language "except the Red Lake Reservation that has since January 14, 1899, been included in any forest or other reserve," for the reasons heretofore stated.

We do not object to the amendment suggested in line 6, striking out "said amendatory" and inserting the word "the."

We also have no objection to the amendment including the statute number.

Mr. ELSTON. For the reasons heretofore stated? Will you just state them?

Mr. MERITT. The reason is that we do not want the question of the title to the Red Lake Reservation attempted to be decided in the proposed legislation. We prefer that that shall go to the Court of Claims.

The CHAIRMAN. That is passed for the present.

Mr. BALLINGER. On page 12, line 17, reinsert the words stricken out, viz: "and undisposed of."

In lines 17 and 18 strike out the words in italics, "and not included in any reserve and not disposed of." The departmental draft would relate only to lands that were not in reserves, and the object and purpose of the amendment is to include both reserved and unreserved land. For instance, you have up there four reservations ceded in 1889, that are still being maintained as reservations, and the object and purpose of this amendment is to catch those reservations and clean them up.

Mr. ELSTON. The words "disposed of" though might include sales. You don't intend to bring that into the purview of this act, lands disposed of by sale?

Mr. BALLINGER. No—and undisposed of.

Mr. ELSTON. Yes, I see.

Mr. HENDERSON. Mr. Chairman, the Red Lake Indians would be opposed to that change for obvious reasons.

The CHAIRMAN. State one or two of them.

Mr. HENDERSON. There is involved, of course, there, the fundamental question as to whether these lands have been ceded—whether what is within their diminished reservation has been ceded. That of itself would be sufficient, I should say, to induce them to ask that that provision be included.

The CHAIRMAN. Mr. Meritt, have you anything to say?

Mr. MERITT. No, sir; nothing in addition to what Mr. Henderson said.

The CHAIRMAN. That is passed for the present. What is next?

Mr. BALLINGER. The next amendment is on page 12, line 23, strike out the word “designated” and insert the word “appointed.”

The CHAIRMAN. Is there any objection to that, Mr. Meritt?

Mr. MERITT. We have no objection to that change.

The CHAIRMAN. That is passed.

Mr. BALLINGER. On page 12, line 24, after the word “the” and before the words “general council” insert “the executive committee of the.” That is the same question I called your attention to on page 1.

Mr. MERITT. We have already stated our objection to that proposed amendment.

The CHAIRMAN. What is the next?

Mr. BALLINGER. On line 25, strike out the words: “and appointed by the Secretary of the Interior.” In other words, the general council do not want to select a representative and then have him appointed by the Secretary of the Interior, because he may not make the appointment, and the amendment just agreed to in line 23 renders unnecessary the language I have asked to have stricken out.

Mr. ELSTON. My objection to the word “appointed” instead of “designated” was just predicated upon the fact that you were mentioning right after that word the only appointing power. Of course if it is intended here that the designation should be made by the general council and the appointment by the Secretary of the Interior, the words “designated” would be the proper word to be used up above.

The CHAIRMAN. Have you anything to say on that, Mr. Meritt?

Mr. MERITT. We have no serious objection to the proposed amendment by Mr. Ballinger, but we think it would be preferable to have the language remain in the bill as it is.

The CHAIRMAN. That is passed then.

Mr. BALLINGER. Mr. Chairman, right on that point, so you will get clearly the position of the general council on it; their object is not to have their representative man responsible for his position to the Secretary of the Interior. If they do, and he makes any complaint, they can remove him and get rid of him.

The CHAIRMAN. I think we all understand that.

Mr. BALLINGER. On page 13, line 2, after the word “land” insert the words: “including any timber thereon.”

The CHAIRMAN. Is there any objection to that, Mr. Meritt?

Mr. MERITT. Will you state your reasons for that, Mr. Ballinger?

Mr. BALLINGER. (Reading:)

And upon a completion of the allotments herein authorized, all of said land, including any timber thereon, so remaining unallotted and undisposed of, or to which no valid right has been initiated, shall be put up and sold at public auction to the highest bidder.

That would take in the timber on the land.

Mr. RHODES. Wouldn't the timber be carried with the designation "land" anyway, because it is part of the realty, attached to the earth?

Mr. ELSTON. It seems to me that is the absolute, general right, as Mr. Rhodes says. The right to the land carries the timber with it.

Mr. RHODES. Let us hear his reasons.

Mr. BALLINGER. Ordinarily that is true, and if we were dealing with a court it would be unnecessary, but we are dealing with the Interior Department, where they construe things differently, and in the appraisal of the land the council wants them to take into consideration the value of the timber on it, and they want the language so clear that there can be no doubt about it.

Mr. RHODES. Has the department ever failed to recognize that principle of common law which means that land includes everything attached to the earth, including standing and growing timber, together with improvements erected thereon?

Mr. BALLINGER. I think I could cite to you several instances in which that has occurred, and that is why we are taking the over-precaution right here.

Mr. RHODES. I never heard of that anywhere in our system of English jurisprudence.

Mr. ELSTON. We have got that stated now, and I think the committee understands it.

The CHAIRMAN. We will proceed to the next.

Mr. MERITT. Mr. Chairman, we have no objection to that amendment, and I want to say that we always recognize that an Indian allottee owns the timber on his allotment unless there is specific provision of law which reserves the timber for the benefit of the tribe and simply gives the Indian the land.

Mr. BALLINGER. On page 14, at the end of line 8, insert the following:

Provided, That the Secretary of the Interior may dispose of so much of Cooper or Star Island in Cass Lake and so much of the land bordering on the eastern, south-eastern, and southern shores of Cass Lake and commonly known as Norway Beach, and the lands adjoining the western shores of Pine Point on Leech Lake, and the standing timber thereon as remains undisposed of, in tracts of limited areas for permanent or summer homes, hotels, or resorts, under regulations to be prescribed by the said Secretary and approved by the executive committee of the Chippewa General Council.

There are some of the most valuable sites for summer resorts to be found in the United States there. There are a large number of summer homes in that section to-day where homes have been constructed under revocable permits. Now, the object and purpose of this is to enable the Secretary of the Interior, under rules and regulations to be prescribed by him, to dispose of this valuable land to the best advantage of the Indians, and to preserve that country—this land—for summer homes and localities. Now, the last portion of it I expect the department will take exception to—"under rules

and regulations to be prescribed by the said Secretary and approved by the executive committee of the Chippewa's General Council." The reason they ask that is that the Chippewa's executive committee think they know more about the values of those lands and how they should be disposed of than the Interior Department, and this will require the department to consult them before they can be disposed of, so that they may submit whatever plans they may have to get the best returns for the Indians.

The CHAIRMAN. What have you to say on that, Mr. Meritt?

Mr. MERITT. Mr. Chairman, Mr. Ballinger has stated the objections of the Indian Bureau. The language that he has proposed is absurd when we consider it carefully. We have the Secretary of the Interior, a Cabinet officer, preparing regulations regarding the disposition of tribal property, and the Secretary of the Interior would be required to submit those regulations to the executive committee of the Chipewa Council for approval. Now, as they have brought out in this hearing, this executive committee of the Chippewa General Council is opposed by probably 40 or 45 per cent of the Indians of Minnesota, and the Secretary of the Interior would not want to be placed in that position.

The CHAIRMAN. It is simply a question for this committee or the Congress to determine which one of the two bodies they believe should have the power to direct the transaction.

Mr. ELSTON. Now, as to the balance of the amendment, you have no objection?

Mr. MERITT. We would want to look into this amendment very carefully, but inasmuch as it would be discretionary with the Secretary, with the language that I am objecting to stricken out, we would have no objection to the item going into the bill, but we would not carry out the legislation if it proved detrimental to the interests of the Chippewa Indians.

Mr. HENDERSON. May I ask a question of Mr. Meritt? This proviso is that the Secretary of the Interior may dispose of "so much." That is, the Secretary of the Interior now has power to dispose of this property?

Mr. MERITT. I think it would require legislation to give title to certain tracts of land up there for allotment purposes. We have executed business leases on some of those reservations, and resort properties have been constructed under the terms of those business leases. Some people have taken big chances in expending considerable money on property to which they did not hold title.

Mr. BALLINGER. And pay no taxes.

Mr. ELSTON. Do they pay rentals?

Mr. MERITT. They pay rentals.

Mr. ELSTON. Nominal rentals?

Mr. MERITT. Nominal rentals.

The CHAIRMAN. That will be passed for the present.

Mr. BALLINGER. On page 14, line 15, after the word "final" change the semicolon to a comma, and reinstate the matter stricken out in lines 15, 16, 17, 18, and 19.

Mr. KELLY. After the word "fund," is it not, instead of "final"?

Mr. BALLINGER. Yes.

Mr. ELSTON. That involves this same Red Lake proposition.

Mr. BALLINGER. Yes, sir; and I want to read that to you, so that you gentlemen will understand it:

All funds derived from the sale of said lands and other property shall be deposited in the Treasury of the United States to the credit of the Chippewa Indians of Minnesota in their principal fund, except the funds derived from the sale of the property on the Red Lake Reservation, which shall be held in a separate fund and shall bear interest at the rate of 5 per cent per annum until the ownership thereof has been determined as hereinafter provided.

Now, Mr. Chairman, if this bill as proposed by the general council should be adopted, it will clean up the Red Lake Reservation. It will allot the lands and sell and dispose of all the other remaining property on the reservation, but will hold the fund to await the final decision of the court.

Mr. ELSTON. Then you only object—your objection is not to the holding of the fund, as it is to the omission of any authority here to sell those lands?

Mr. BALLINGER. Well, the bill with the amendment of the general council provides for the sale of those lands, and the disposition of them, and this provision holds the funds received to await the final decision of the court. In other words, it cleans up this reservation now and makes the disposition of the fund dependent upon the decision of the court.

Mr. RHODES. What do you mean when you refer to the decision of the court? Does that mean decisions anticipated because of the pending suit?

Mr. BALLINGER. There is another provision in this bill referring that very matter to the Court of Claims for final decision.

The CHAIRMAN. That is passed.

Mr. HENDERSON. I just desire to say that the Red Lake Band object to being cleaned up in just this way. They want to be cleaned up, but not in the way that this provision would do it.

Mr. ELSTON. Mr. Henderson, if any authority for the sale of Red Lake lands of any kind is kept out of the bill, would the Red Lakes still contend that they belong to the Chippewa Indians of Minnesota, and claim their part of this principal fund mentioned here as being part of the general tribe?

Mr. HENDERSON. Just so much as they were entitled to under the provisions of the agreements of 1889 and 1904.

Mr. ELSTON. In other words, they claim that the other Indians have no participation in their reservation, but that they have a participation in the surplus lands of other reservations?

Mr. HENDERSON. Hardly that, Mr. Elston.

Mr. ELSTON. It looks to me like that is what it means. They claim both ends, it looks to me.

Mr. HENDERSON. They claim that the Chippewa Indians of Minnesota have a right to participate in the very large surplus of their section over that ceded to all the rest of the Indians in Minnesota put together, but that they have not the right to participate in any proceeds from the diminished reservation which they understood to be theirs exclusively at the time the agreement was made.

Mr. ELSTON. Did they get their proportion of the sale of the surplus part of their reservation before it was diminished to the present extent?

Mr. HENDERSON. Have they received it up to this time?

Mr. ELSTON. Yes; in the way of participation.

Mr. HENDERSON. I assume that in the distribution of that fund they have received their proportion.

Mr. ELSTON. Then to that extent they have been on a parity with all other Indians of the Chippewas of Minnesota?

Mr. RHODES. And applying the same argument, would be entitled to participate in future disposition of the general fund?

Mr. ELSTON. I understand Mr. Henderson says they do make that claim.

Mr. KELLY. They claim that they shall be considered part of the Chippewa Indians, wherever it benefits them, but that they should be segregated when it is to their own benefit.

Mr. RHODES. I don't think that is a fair statement. Here is the statement as I understand it. They are a part of the Chippewa Tribe when it comes to participating in the tribal property; they are to enjoy exclusively that property which has been set apart for them exclusively up to this time.

Mr. ELSTON. No; I want to get that thing straightened out, because there seems to be a little inconsistency there.

Mr. HENDERSON. I would like to, at the expense of a little time, try to state it once more.

Mr. ELSTON. I think we have got that, Mr. Henderson. I did not mean by my statement to indicate any prejudice or to commit myself on the matter one way or the other. My mind is entirely open on that.

Mr. BALLINGER. On page 15, line 1, after the word "upon" insert the following: "and with the approval of the executive committee of the general council."

Now let me proceed and make one or two other amendments in the text, and then read it in its entirety as amended.

In line 2, reinstate the words stricken out, "or all," and after the word "all" insert the words "school equipment."

In line 3, before the word "and" insert the words "used for school purposes."

In line 4, after the word "Indians" insert the following: "Any school property not turned over to the State and remaining undisposed of shall be sold under the direction of the Secretary of the Interior for the best price obtainable." So that the provision would read as follows:

That the Secretary of the Interior is hereby authorized to convey to the State of Minnesota, to be used as a part of the public-school system of said State, upon such terms as may be agreed upon, and with the approval of the executive committee of the general council, any or all school equipment, buildings used for school purposes, and any land or part thereof now reserved or used for school purposes for said Indians. Any school property not turned over to the State and remaining undisposed of shall be sold under the direction of the Secretary of the Interior for the best price obtainable.

The object of these amendments is, first, to give the general council some voice, or at least require their consultation so that they may make suggestions to the department with reference to the school situation, so that the Secretary may have the benefit of that; and, secondly, that the conveyance to the State shall be of the school equipment and buildings actually used for school purposes. It would limit it to that, and then provides for the sale of residue lands at present held for school purposes, but which are unnecessary,

at the best price obtainable. Some of these schools have as much as 160 acres of land connected with the schools, and under this provision the Secretary could hand the whole thing over to the State. The Indians want a proper limitation on that.

Mr. MERITT. We object to the first amendment, "and with the approval of the executive committee of the general council," for the reasons heretofore stated in connection with a similar item in the first part of the bill.

We have no objection to the insertion of the words "or all equipment used for school purposes."

We also have no objection to the insertion of the amendment if one word is changed. The amendment reads:

Any school property not turned over to the State and remaining undisposed of shall be sold under the direction of the Secretary of the Interior for the best price obtainable.

We would prefer that that word "shall" should be changed to "may," so that this language can not be construed to require the Secretary of the Interior to dispose of school buildings actually needed for school purposes for the Chippewa Indians.

The CHAIRMAN. Let me make a suggestion—this is for the benefit of the opposed parties here—on the question of the executive committee of the Chippewas having the right to object to this thing—what is the word you used in your amendment there?

Mr. BALLINGER. "And with the approval."

The CHAIRMAN. And with the approval. Why not say, "that the Secretary shall consult with the executive committee before" he prepares his rule for the purpose?

Mr. BALLINGER. Mr. Chairman, in view of my experience with the department, that would not be sufficient.

The CHAIRMAN. But you do admit here—now I am not going to go into a lengthy discussion—you do admit that the whole point of this provision is whether the Secretary of the Interior shall have the right to say what shall be done, or whether the executive committee of the tribe shall have the right to say?

Mr. BALLINGER. That is not the object.

The CHAIRMAN. But that is the effect of the whole thing. You can not get away from it.

Mr. BALLINGER. That may be the effect, but the object of it is to get better school facilities and better administration in that country.

The CHAIRMAN. I know, but when this committee gets ready and the House gets ready to decide that question it must say which one of those two parties or bodies shall have the final say.

Mr. BALLINGER. But couldn't it then be left to some other institution, a court or something else, to say whether or not it is a fair proposition?

The CHAIRMAN. I am speaking now of the thing that is before us.

Mr. ELSTON. Let us go on, Mr. Chairman.

The CHAIRMAN. Well, proceed. What is the next?

Mr. BALLINGER. On page 16, line 15, strike out the words in italics and reinstate the words stricken out in lines 15 and 16. Let me read one or two of our amendments and then I will read the text in its entirety as amended.

In line 17 strike out the words in italics and reinstate the words stricken out.

In line 17, after the word "and" insert "in his discretion other." So as amended it would read:

That the Secretary of the Interior be, and he is hereby, authorized to, within six months after the acceptance of this act, establish a town site at Red Lake and, in his discretion, other town sites on the Red Lake and White Earth Reservations, in State of Minnesota, and upon any lands ceded under the act of January 14, 1889.

Mr. Chairman, a law of Congress was passed 10 years ago authorizing the establishment of a town site at Red Lake. The town site was surveyed and laid out, but for reasons peculiar to the department the town site has never been established. The result is that a beautiful site for summer resorts lies there idle. People can not acquire title to the land, and the Indians are without facilities for markets for their produce. Complaint was made yesterday that Ben Fairbanks and John Morrison controlled the store situation on Red Lake Reservation. They do it because of the departmental policy. If this amendment is adopted it will throw Red Lake, a town site at Red Lake, open to the public so anybody can come in there and establish stores and provide markets for the produce of the Indians, and will develop that country. It will, in my judgment, mean an income to these Indians of from one hundred to three or four hundred thousand dollars a year in providing the market facilities.

Mr. RHODES. Is there a demand for a town site there?

Mr. BALLINGER. Yes, sir.

Mr. ELSTON. Is there a railroad there?

Mr. BALLINGER. No, sir; the railroad runs up to Redby, about 5 miles away, but if a town site is located here and if you can once get into this reservation, there would be railroads there and the Red Lake Indians can then have public schools and all of the other advantages that will come to the people.

Mr. ELSTON. Don't towns grow up naturally in areas where they are needed or do they have to be provided for in this way artificially?

Mr. BALLINGER. Around through that country, gentlemen of the committee, there are several settlements that approximate good-sized towns, where the people are living and have constructed buildings, without a shadow of title upon which their buildings rest; and that is the situation at Red Lake to-day. There are stores there worth \$10,000 to \$15,000 or \$20,000, constructed by gentlemen under a revocable permit, and this will enable this land to be sold for town-site purposes at an advantageous price to the Indians, and will bring to the Indians public school facilities, a market for their produce, and every other advantage.

The CHAIRMAN. Now, Mr. Henderson, have you got anything to say on that?

Mr. HENDERSON. Mr. Chairman, I have not had an opportunity to confer with the Red Lake Indians largely upon this question, but I do know that they are very strongly opposed to any such provision being included in the legislation at this time. I suppose that it is based upon the theory that until allotments are made their reservation should be as nearly their own as possible, and that allotment can be very much more safely made to them before the development of town sites on their reservation than afterwards.

Further than that, I feel that I would like to reserve my explanations or reasons until I have had time to confer with the Indians at

length. I do know, however, Mr. Chairman, that they are very strongly opposed to any town-site legislation at this time.

The CHAIRMAN. Have you anything to say, Mr. Meritt?

Mr. MERITT. Except to confirm the statement of Mr. Henderson that the Red Lake Indians are opposed to this provision. It is the entering wedge into the opening of their reservation. And there is another serious objection. If this provision is enacted, it would take the trading stores on that reservation out from under the jurisdiction of the department, and they would be in a position to charge whatever price they wanted to to the Red Lake Indians. Under present conditions we can keep the prices within the bounds of reason, but if this legislation were enacted there would be no restrictions on that matter.

Mr. ELSTON. Mr. Meritt, wouldn't the bureau uphold all the contentions of the Red Lake Indians that they want to remain isolated and unallotted, and not participate in what the bureau has always declared to be its policy with respect to most all reservations of opening them up as quickly as possible and following out a general rule? Now, what is there peculiar with the Red Lake Reservation that keeps it inviolated?

Mr. MERITT. I can state that in a very few words: I have stated it more extensively in the hearings heretofore. The department does not want to allot the Red Lake Reservation at this time for the reason that a large part of the land is swamp and needs to be drained; another part of the land is very valuable for timber.

Mr. ELSTON. I think you have gone into that. I remember it now.

Mr. HENDERSON. Mr. Chairman, if I may be permitted to say that I think there is a very good legal underlying the proposition which it would take considerable time to set out now. Later I would like to have the opportunity to present my views.

The CHAIRMAN. What do you have next, Mr. Ballinger?

Mr. BALLINGER. On page 17, line 9, before the words "General Council" insert the words "Executive Committee of the." That is the same question presented in the second amendment offered.

Mr. MERITT. We object to that for the same reason.

The CHAIRMAN. There is nothing to be said on that, I think.

Mr. BALLINGER. On page 18, line 24, after the words "Public school" insert the words "and park."

Mr. MERITT. We have no objection to that, Mr. Chairman.

Mr. BALLINGER. On page 19 reinstate section 5 with the following amendments:

In line 8, strike out the word "at;" in line 9, strike out the words "Bemidji, Minnesota"; in line 9, after the word "beginning," strike out the word and figure "July 8." In line 9, after the word "beginning," insert the following: "on the second Tuesday in July." So that it will read as amended:

To be held annually, beginning on the second Tuesday in July of each year, pursuant to the constitution of the general council.

The constitution and by-laws provide that each annual council shall designate the place where the next council shall be held, and that it shall be held on the second Tuesday in July. The language as it appears in the draft of the bill fixed it July 8, by inadvertence, each year, and fixed also the place as Bemidji, Minn. This merely makes the provision conform to the constitution and by-laws of the general council.

MR. MERITT. Mr. Chairman, I suggest that Mr. Ballinger read the wording of the section as amended, and I would also like for the committee to note carefully the language in that section as amended.

MR. BALLINGER. I will be very glad to do that (reading):

SEC. 5. That the sum of \$15,000, or so much thereof as may be necessary of the tribal funds of the Chippewa Indians of the State of Minnesota, is hereby appropriated annually for the period of five years to pay the expenses of the general council of said tribe to be held annually on the second Tuesday of July of each year, pursuant to the constitution of the general council of said Chippewa Indians of Minnesota; and the expenses in looking after the affairs of said tribe, including expenses of its necessary committees: said sum to be available to the 1st day of July during each of said five years, and said expenses to be approved by the president and secretary of the general council and certified to the treasurer of said general council, and as [in line 17, the word "but" wants to be changed to "so"] so approved and certified, to be paid: *Provided* That said sum of \$15,000 shall be paid to the treasurer of said general council upon his first filing with the Secretary of the Treasury of the United States a good and sufficient bond to be approved by the said Secretary for the proper care and disbursement of any moneys received by him: *Provided further*, That the said Treasurer shall on the 30th day of July of each year render a true statement to the said Secretary of all funds received by him and disbursed or on hand.

Now, Mr. Chairman, just one word with reference to that. If this general council is given the powers that are asked in this bill there will be a great deal of work for it to perform. Annually this council has had to send representatives here to fight for an appropriation for its very existence. It has cost the tribe annually probably \$2,000 out of its trust funds to get an appropriation of \$10,000. Now if this appropriation is made continuously for five years, that expense will be saved to them and that \$2,000 can be used for more useful purposes.

Again, this provision provides that the money shall be paid to the treasurer of the general council, and under existing law it is provided that upon the approval and certification of the account by the secretary and president of the general council the money shall be paid, yet under the practice of the Indian Office, and notwithstanding the fact that the Comptroller of the Treasury has held that their approval and certification is a finality and that the Secretary of the Interior and the Indian Bureau have nothing whatever to do with it thereafter except to submit it for payment, those accounts are received here, lie here anywhere from two weeks to six months and sometimes a year, and then they are transmitted with adverse recommendations by the Indian Bureau, resulting in further delays, and are handled in the Indian Bureau by not less than 10 and I think I am more accurate when I say about 16 clerks, taking up the time of the Indian Bureau and costing the Government of the United States probably \$2,000 a year in clerical hire.

THE CHAIRMAN. What have you to say about that, Mr. Meritt?

MR. MERITT. Mr. Chairman, I wanted Mr. Ballinger to read the exact language of the committee, so that the committee could know what Mr. Ballinger is attempting to do in this bill.

First, they are attempting to raise the appropriation for the general council from \$10,000 to \$15,000; and, second, they are attempting to get an appropriation for a period of five years, a very unusual situation. In all my experience with Indian legislation, I have never known anyone to ask for an appropriation for five years in advance.

MR. KELLY. Can Congress appropriate five years in advance?

MR. MERITT. I doubt if Congress can appropriate for five years in advance.

The CHAIRMAN. They never would; that is a certainty.

Mr. MERITT. The third unusual situation in regard to this legislation is that the only power that the Secretary of the Interior has over these accounts is simply to transmit them to the auditor for payment, regardless of how they are expended. For example, the members of the general council have been paying themselves \$10 a day —

Mr. BALLINGER (interposing). No; Mr. Meritt, \$5.

Mr. MERITT. \$5 for hotel bills and \$5 a day in addition, making a total of \$10. They have also been paying Mr. Ballinger considerable money during the last two or three years.

The CHAIRMAN. He certainly has earned it. There is no question about it.

Mr. BALLINGER. They haven't paid me my expenses.

Mr. MERITT. The fourth unusual proposition is that the Secretary of the Treasury is required to pay over this \$15,000 each year at the beginning of the year and allow it to be expended without any check or balance, and later, at the close of the year, they are to submit an accounting.

Mr. ELSTON. Of course, Mr. Meritt, here is the theory—this is a conflict of two authorities. I suppose this general council is created as a separate body, as a check at least upon the bureau, to be independent of the bureau and to represent the Indians themselves, and nobody else, and to assert their rights as against the bureau. Now, they must be given self-determination to some degree in order that they be anything more than a mere reflection of the bureau. Now, the bureau can not expect to be dominant at its end and then create an agency to check it and create an independent agency which is supposed to have independent representation here and then to dominate that agency also. The two agencies should be absolutely separate. Now, how that can be done, I don't know, but the bureau can not expect to control something that it has created to check it.

The CHAIRMAN. That would be all right if the council was recognized by the Chippewas themselves.

Mr. MERITT. That is the point at issue.

Mr. ELSTON. I am speaking of the theory, Mr. Chairman, not of this particular instance. It looks to me that in pursuance of the policy of the department in making these people independent in their own affairs, giving them the right of self-government, teaching them how to look after their own affairs, you can not go meddling into everything they try to do independently for themselves.

Mr. MERITT. We do not want to do that, but we do want the council up there to be representative of all the Chippewa Indians, and between 40 and 45 per cent of those Indians are not now represented in this council and the 55 per cent are dominating the Chippewa situation to the detriment of the other 45 per cent and are making representations and endeavoring to get legislation that is opposed by at least 45 per cent of the Chippewa Indians. Besides that, this council is actually using moneys of the Red Lake Indians to maintain themselves down here while they are attempting to deprive the Red Lake Indians of property which they claim is their exclusive property.

Mr. KELLY. Has the mind of man ever conceived a better form of government, of representation, than the majority rule where the majority is recognized?

Mr. MERITT. That is true, that the majority should rule, but they may not be a majority. It may be intelligence overcoming inexperience, and it may be shrewdness overcoming a lot of incompetent Indians who do not know how to manage their own affairs.

Mr. KELLY. I understood you to say that 55 per cent was admitted to be on the side of the general council?

Mr. MERITT. I do not admit that they have 55 per cent representation. The full bloods claim that they have 80 or 90 per cent of the real Indians on their side, but when it comes to organizing a council they are very shrewd business men and very shrewd politicians, and they can usually control the conventions so that they will dominate the situation.

Mr. ELSTON. If the bureau would revise its regulations in regard to the conduct of these elections and let the thing go under those regulations and, instead of trying thereafter to block the action of the majority, if you absolutely make fair regulations for the conduct of the elections, and when the election is made, take the acts of the council, of the election, as representing the wish of the tribe, that is the only way that you can get along.

The CHAIRMAN. The difficulty as I see it is that there are at least four bands up there, and one of the bands exclude themselves from any part of the arrangement. Now, in addition to that you have the Indians that call themselves full bloods who do not participate in the proposition at all. It is just like four States; they might all have to be included in the general unity of the proposition whether they voted or not, but you have got a lot of incompetents to deal with. It is not really a question of States, and yet it assumes somewhat the proportions of them. We have got the same thing in the wet and dry situation now; certain States that rebel, and you have the same situation here. If we pass the legislation that is proposed here by the general council, it is objected to by a segregated set of Indians who do not agree at all, and the minute this legislation is attempted to be put into effect they are going to rebel and protest and litigate.

Mr. KELLY. Well, is the power of the Government to be limited by the rebellion of certain small minorities?

The CHAIRMAN. I should say no, but we are confronted here day after day with legislation desiring to go to the Court of Claims to adjust just exactly the same kind of matters that are going to be involved after this legislation goes into effect, if it ever does. I can see all sorts of claims and protests and difficulties that we are going to have to eventually straighten up the trouble that we are going to make by enacting this legislation, and yet it might be in the long run the proper thing to do.

Mr. BALLINGER. Mr. Chairman, there is a provision that I am going to offer at the tail end of this bill that will settle once and for all the question of elections in that country.

Mr. HENDERSON. Before we get to that Mr. Chairman, may I say briefly on behalf of the Red Lake Indians, that they ask to be excluded entirely from the effect of section 5.

The CHAIRMAN. There you go the first thing, you see.

Mr. MERITT. The Red Lake Indians refuse to have anything to do with the Chippewa general council. They refuse to have any representation on that general council and they repudiate the action of the general council.

The CHAIRMAN. Now, let me ask, beginning with section 6, we come into what we might call the jurisdictional part of the bureau, or this is what has already been introduced as a separate bill?

Mr. BALLINGER. I am going to come right to that.

The CHAIRMAN. Am I correct in that?

Mr. BALLINGER. Yes, sir; and I am going to take up now—let me complete the amendments to the other provision of this bill so it will be clear on the record.

On page 20, lines 1 and 2, reinstate the matter stricken out.

The CHAIRMAN. Do you object to that, Mr. Meritt.

Mr. MERITT. Yes, sir.

Mr. KELLY. That was included when you said section 5 should be reinstated.

Mr. MERITT. We are opposed to the insertion of section 5 in this bill, for the reason that I have stated, and also for the further reason that if there is to be any appropriation for the Chippewa council it should be made annually in the Indian appropriation bill.

Mr. BALLINGER. Now, Mr. Chairman, so that the administrative provisions may be altogether, I ask, now, to turn to pages 26, 27, and 28. Change section 5 to section 6. Let that follow on as section 6 of this bill.

On page 28 change section 6 to section 7.

Mr. MERITT. We have no objection to the amendments.

Mr. BALLINGER. On page 28, include section 8 in this bill as it appears in the committee print.

Mr. HENDERSON. I don't quite get that, Mr. Ballinger. Where would section 8 then come?

Mr. BALLINGER. Just in its regular rotation. The next section above that is section 7; then comes section 8 as it is numbered in the bill.

Now, include section 9 with the following amendments:

Lines 20, 21, 22, 23, and 24 reinstate the matter stricken out.

In lines 24 and 25 strike out the words in italics. Let me read that to you as we desire it first and then as the department desires it. I will read now the provision as desired by the council:

That all laws and parts of laws in conflict with this act are hereby repealed, and the sum of \$50,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury of the United States not otherwise appropriated, to defray the administrative expense in carrying out the provisions of this act.

Now, Mr. Chairman, so that there may be no question about this in the future, that provision as it stands would take that money out of the Public Treasury and not out of their trust funds. The council feels and insists that it has already paid out of its trust funds far more money than would have been sufficient to have administered this estate. Nearly 50 per cent of the entire proceeds received from the sale of property of the Chippewa Indians has gone into administrative expenses.

Mr. MERITT. Now, Mr. Chairman, we deny that.

Mr. BALLINGER. I am going to put the official figures into the record before I get through. Survey after survey has been made up in that country, classification after classification of timber has been made in that country; then years later on account of frauds committed by administrative officers, the work done was all thrown into the scrap heap; that is, it was done over again, and the money was

again taken out of the trust funds of the Indians, or appropriated by Congress and made reimbursable to cover the expenses.

Because of the waste of millions of dollars in the way I have described, the council asks Congress in common fairness to it to defray these remaining expenses out of the Public Treasury. The provision as offered by the bureau, which is supposed to represent the Indians, is not to take it out of the public fund, but to take it out of their trust fund. I hope I have made myself clear upon that point.

The CHAIRMAN. I think you have. Now, Mr. Meritt, what have you to say about that?

Mr. MERITT. The position of the bureau in this matter is simply this, Mr. Chairman: Congress has established the policy of paying administrative expenses for the administration on Indian reservations out of tribal funds where there are large amounts of money in the Treasury to the credit of those Indians. The Chippewa have in the Treasury of the United States at this time more than \$6,000,000 and we believe that inasmuch as certain of the Chippewa Indians are asking for the legislation herein, that it is only proper that the usual policy should be pursued, namely, that those funds should come out of the Chippewa funds rather than as a gratuity appropriation out of the Treasury of the United States.

The CHAIRMAN. Now, what have you got to say as to the waste of funds in administrative work?

Mr. MERITT. We deny that absolutely, and we want an opportunity to analyze any figures that Mr. Ballinger may place in the record, and furnish a true and correct statement of the situation.

In addition to my statement, Mr. Chairman, Mr. Ballinger is attempting to establish a precedent here that will enable him to strengthen the claim that the Chippewa Indians will later maintain against the Government, namely, that Congress has not heretofore had authority to appropriate moneys out of the Chippewa funds for administrative expenses. That is one of the contentions that Mr. Ballinger now makes and has made for some time, and if he can get this as a gratuity appropriation it will strengthen his position in asserting that claim against the Government.

The CHAIRMAN. I think that it is very clear to the minds of the committee that a platform or policy is laid out here for the purpose of later on making great claims against the Government for moneys that have been heretofore expended.

Mr. BALLINGER. Mr. Chairman, I want to be absolutely candid.

The CHAIRMAN. I think you have stated that several times.

Mr. BALLINGER. While that is true, this can not be used in any manner, shape, or form as a basis for such a claim.

The CHAIRMAN. I am not arguing that point.

Mr. BALLINGER. On the other hand, Mr. Chairman, I am perfectly willing that we shall write into this law right here a provision that in lieu of this appropriation out of the Public Treasury no claim resulting from timber frauds shall be brought in any court against the Government.

Mr. HENDERSON. Mr. Chairman, I would not on behalf of the Red Lake Indians be willing to have that substitute made, as I think the whole question can very easily be settled by a liberal provision being

allowed by the committee in its report on the jurisdictional act. I think such claims as are just for the maladministration of this estate should be allowed to go into the courts.

Mr. BALLINGER. Mr. Chairman, when they go into the courts we can not recover, we can not make proof that will entitle us to recover for these timber frauds. We can not show as a matter of fact—and it is wholly incumbent on us in a court to do it—that these were in fact frauds participated in with the knowledge of the higher officials. A mere mistake on the part of an administrative officer in the administration of affairs will not entitle the Indian to recover. He must show that which is either fraud or the equivalent of fraud, not only in the Government officer who conducted it but also in the principle, because there is a difference between agency on the part of the United States and agency on the part of the individual. The individual is bound by the act of his agent; the Government of the United States is not bound by the act of its agent, and we can not, when we come to a court, Mr. Chairman, under any view that you can take of this matter, recover back from the Government the losses that the Indians sustained in these timber transactions.

The CHAIRMAN. What is the next item?

Mr. BALLINGER. I want to go back just one line there on page 28 and strike out section 6 as it appears in the bill. That is lines 11, 12, 13, and 14. It is unnecessary for me to make any explanation of that. Those lines if permitted to stand would exclude the Red Lake Reservation from the operation of the law.

Mr. MERITT. Mr. Chairman, we are asking that that section be included in the bill.

The CHAIRMAN. And where will you have it?

Mr. MERITT. Exactly where it is now, or at the end of the bill. We have no choice as to its location in the bill.

The CHAIRMAN. Well, inasmuch as the other section has been transferred—

Mr. MERITT (interposing). I see no reason to transfer the section. Simply have section 7 changed to section 8 and renumber the other sections accordingly. The section that we want to be retained in the bill reads as follows:

That nothing in this act with reference to the sale and disposition of timber or land or other property shall, except as herein otherwise expressly provided, apply to the Red Lake Reservation in Minnesota.

Mr. BALLINGER. Mr. Chairman, if you include the Red Lakes in the rolls and the allotments, then that provision ought not be excluded; if, on the other hand, you exclude the Red Lake Reservation from the operations of the bill, then that provision ought to be included.

Mr. MERITT. Mr. Chairman, I will state that we had a more stringent section drafted in the Indian Bureau, and Mr. Ballinger, with his usual eloquence, prevailed upon us to adopt his draft of this section.

Mr. BALLINGER. Reserving the right to object to it.

Mr. MERITT. Mr. Ballinger drafted this section, and in order to meet his views as nearly as we could, we accepted his draft instead of our own. We had been very liberal with Mr. Ballinger in connection with this legislation.

Mr. KELLY. Of course, the words that he has placed in there, "as herein otherwise expressed or provided," he intended to get in before that—all these matters dealing with the Red Lakes.

Mr. MERITT. We recognize the smoothness of Mr. Ballinger in this matter.

Mr. BALLINGER. Mr. Chairman, I don't like this smoothness business. I don't like those things to appear in the record.

The CHAIRMAN. That is just a figure of speech. We had charges made here yesterday against the bureau of everything but murder, and we let them all go in. However, I am willing that the word "smoothness" should be stricken out.

Mr. BALLINGER. Mr. Chairman, right on that point, some of you gentlemen do not appreciate what it means to a lawyer who comes before the committee and who has that kind of language used in connection with him, and the document circulated around, and the next thing he knows his character is gone, until many lawyers hesitate about appearing before a committee of Congress, solely because of the use of such language.

The CHAIRMAN. Well, if you desire it, we will strike out the word "smoothness" and put in the word "ability." [Laughter.]

Mr. MERITT. I am willing to accept as a substitute "smoothness and ability."

The CHAIRMAN. We will pass on to the next amendment. Now that brings us back to section 6, to what was known as section 6.

Mr. BALLINGER. If you will turn now to H. R. 12972, we will use that as the basis.

The CHAIRMAN. Now let us discuss first the propriety of including this legislation in the administrative bill.

Mr. HENDERSON. Have we passed to the jurisdictional?

The CHAIRMAN. That is what we are getting ready to pass to.

Mr. HENDERSON. I want to have a chance to say that the Red Lake Indians will have a substitute to offer for section 7 at the proper time; the form of section 7 is not satisfactory to them.

The CHAIRMAN. Very well. Now, the question has been raised as to whether or not it was wise to have a jurisdictional bill included in what might be called the administrative bill, and that I am willing to listen to discussion on, as to the propriety, whether that ought to go into this bill or whether it ought to go into a bill by itself.

Mr. BALLINGER. Mr. Chairman, there are substantial reasons why it ought to be all put together, and I want to point those out to you. If you will turn to section 2, page 11, of the administrative bill, you will observe a provision—and, I think, similar provisions occur in the bill as drafted—you will see that it is provided:

SEC. 2. That as compensation for losses sustained by the Chippewa Indians of Minnesota for the failure to sell and dispose of lands ceded to the United States in trust under the provisions of the act of January 14, 1889, and subsequently included in forest and other reserves, contrary to the intent of said act, * * *

You authorize a change in the manner of selling the property, the remaining property. If that bill should fail to become a law and the jurisdictional bill should pass separately, the Indians would, in my judgment, take judgment against the United States in a sum varying from five to eight millions of dollars. That is what that provision means in section 2, that the Indians, in consideration of the change in

the manner in which you shall sell the remaining lands, surrender and quitclaim to the United States their claims against the United States for locking up and holding those lands in forest and other reserves for 31 years, in violation of the agreement of 1889. Therefore, I say, that if for no other reason, those two, both the administrative and jurisdictional provisions, should be tied together so that when they are enacted into law it will be complete and that claim can not then be presented to the court.

Now, there is another reason that I suggested. If you enact this law, this administrative provision, it will liberate these Indians. It will mean a saving to the United States of claims of at least \$8,000,000 if you tie the two of them together. If you separate them it is going to pile up claims against the United States and then subsequently, after you have gotten court judgments and decisions, they will come along and get this kind of administrative relief.

Again, I observe that whenever a jurisdictional bill comes up on the calendar in the House somebody objects to it because it probably takes some money out of the Treasury of the United States. If they are tied together and the House can be made to understand that this cleans up the Chippewa matter, cuts out at least \$8,000,000 against the United States, I don't believe there will be as many objections to it as there otherwise would be.

Mr. HENDERSON. Mr. Chairman, on behalf of the Red Lake Indians, who feel that they have made such a tremendous contribution to the fund by reason of their large excess of cession of lands, to which there seems to be at the present time very little hope of recovering from the rest of the Minnesota Chippewas, we would not like to have any interest that may exist there in valid claims disposed of in the way that Mr. Ballinger proposes, and therefore if that is going to be the effect of this legislation it is a very strong argument from our point of view toward the separation of the two branches—the two parts of the legislation.

Mr. KELLY. Mr. Henderson, you do not certainly want us to go into the House and fight this proposition as indicated by this hearing twice, do you?

Mr. HENDERSON. Well, I think half a loaf is better than no loaf at all, and I think, Mr. Kelly, that the crux of this whole matter will be over when the Court of Claims passes upon the questions that will be presented to it in these claims. I think that is the legislation that is really needed to settle differences among the Chippewa Indians.

The CHAIRMAN. You have reference now to the jurisdictional bill?

Mr. HENDERSON. I have reference to the jurisdictional bill.

The CHAIRMAN. You think that bill ought to pass, and you don't think the other one ought to?

Mr. HENDERSON. No; I don't say I don't think the other one ought, but I think the passage of the jurisdictional act will settle the bulk of the troubles.

Mr. BALLINGER. It will settle Red Lake.

Mr. HENDERSON. It will settle a large part of the troubles among the Minnesota Chippewas.

The CHAIRMAN. Have you anything to say, Mr. Meritt? Now, this is on the point of whether or not it shall be included as one bill, or whether it ought to be two.

Mr. MERITT. I think it would be more desirable that the administrative bill and the jurisdictional bill be separated, for the reason that it will be more or less confusing when it goes on the floor of the House and Senate; and for the further reason that it will be more difficult to get the two bills through as one bill than it will be to separate the bills and get them through Congress. For example, I happen to know now that one Member of Congress says he will kill the jurisdictional bill when it comes on the floor of the House. I do not care to mention his name.

Mr. KELLY. Who is the one man that has power to kill any bill?

Mr. MERITT. It is almost impossible now for legislation to get through with the opposition, the serious opposition, of a Member of Congress from the State where the Indian legislation arises. That has been our experience in the past.

Mr. KELLY. I never knew that there was any one individual Member of Congress that was able to overthrow the wishes of all the rest of the Members.

The CHAIRMAN. He can make a nasty fight, though.

Mr. MERITT. He thinks he has very good reasons for that position, and I am simply citing that as an illustration of why it is desirable to keep these bills separate.

The CHAIRMAN. I don't think I would have to guess very long to guess who it was.

Mr. MERITT. We want to wind up the affairs of the Chippewa Indians just as quickly as possible but I think you will find that if the two bills are joined together they will never be enacted by Congress.

The CHAIRMAN. All right, then, we will pass that for the time being and see what the amendments are to it as it exists.

Mr. BALLINGER. Mr. Chairman, I have it in my notes as additional sections to the bill. Shall I consider it in that form or shall I consider it separately?

The CHAIRMAN. I would like to take it up as it is in the present bill here, beginning with section 6, because that is before all of us. I understand it is exactly the same thing.

Mr. BALLINGER. No, it is not; there are changes.

The CHAIRMAN. Well, you can point out those changes as we come to them.

Mr. MERITT. I think, Mr. Chairman, that there are so many changes that if he desires to consider the regular jurisdictional bill, H. R. 12972, it would be separate.

The CHAIRMAN. All right, we will consider H. R. 12972.

Mr. BALLINGER. Mr. Chairman, I refer now to H. R. 12972. The council asks that that bill be adopted as additional sections to the administrative bill and put in one bill, and if that is done, then they ask that on page 1 the first section be changed to section 10—be numbered as section 10.

On page 2, change section 2 to section 11.

In line 19, page 2, after the word "thereof" insert the following: "and lawfully chargeable against said tribe or any band thereof." Let me explain that provision. It is necessary for me to read from section 2:

That if any claim or claims be submitted to the said court, it shall settle the rights of any of the parties thereto, notwithstanding the lapse of time or the statute of limitations, and any payment which may have been lawfully made upon any claim so submitted shall not be pleaded as an estoppel, but may be pleaded as a set-off in such suit or suits, and the United States shall be allowed credit for any sum or sums, including gratuities heretofore paid or expended for the benefit of said tribe or any band thereof.

Now after the word "thereof," I ask to have included: "and lawfully chargeable against said tribe or any band thereof."

The CHAIRMAN. That cuts out the necessity for putting in the word "gratuities."

Mr. BALLINGER. Now, Mr. Chairman, this tribe has been in existence 100 years or more. It has been dealing with the Government for 100 years or more.

The CHAIRMAN. Isn't that the effect of the last language that I have just stated? •

Mr. BALLINGER. Absolutely. I think that is the effect of it.

The CHAIRMAN. So if we strike out the word "gratuities," it is unnecessary to put in the language you have just suggested?

Mr. BALLINGER. Precisely. Now what is the situation? I don't know what gratuities they refer to, but if that is intended to include these appropriations that Congress has been making for support and civilization—and that is what I take it the Indian Office is driving at—and they are to be included as gratuities, it would prevent the tribe from recovering any money back.

Mr. KELLY. Now, Mr. Ballinger, let me ask you a question for my own information.

Mr. Mann objected the other day to a bill in which we left these words out "including gratuities," and I made the statement, which I thought was correct, that the Court of Claims has ruled that in such bills as this these gratuities shall be considered as set-offs and counterclaims.

Mr. BALLINGER. I think you were correct, that every appropriation that has been made from the Public Treasury for these tribes during more than a hundred years you can go back and bring in and charge up against them. It is manifestly unfair to go back 100 years ago, when the policy of the Government was to maintain these agencies for the benefit and protection of the white people and not for the Indians, and it made gratuitous appropriations for the support of those agencies, to now come back and charge up against these Indians every dollar that has been appropriated during more than 100 years. Now, if you will put in there the words that I refer to, you will put a limitation upon the items to be charged against the Indians, and I certainly think that it would be unfair to the Indians to leave it as it is drafted by the department.

Mr. RHODES. I want to ask you a question, Mr. Ballinger. I see in section 2 here reference is made to statutes of limitation. Are there any sort of claims that the Government has undertaken to bar by statutes of limitations?

Mr. BALLINGER. I don't think that that language is necessary, except that we have statutes that no claims against the United States shall be prosecuted after six years. I believe that is the Indian depredation act.

Mr. RHODES. Is it the intention of this statute to repeal all existing statutes of that nature?

Mr. BALLINGER. I think that would be the effect, if there are such statutes. But, Mr. Rhodes, let me call your attention to the fact that these Indians never, at any time, could have gone into a court and asserted a claim against the United States. That can only be done when the sovereign gives the Indian the right by jurisdictional act to go in and bring his suit. That right has thus far been withheld from the Chippewas, and in view of that I think it would be fair——

Mr. RHODES (interposing). To my mind it is clear there is an intention to repeal existing statutes of limitations.

Mr. BALLINGER. On both sides.

Mr. RHODES. If there is reason for it, it ought to be there, and if there is no reason for it, it ought not to be there.

The CHAIRMAN. I think the policy of the committee has been not to force the Indian to pay back moneys that have been gratuitously paid in the interest of the Indian without his knowledge or consent.

Mr. BALLINGER. That is a fair proposition, Mr. Chairman. That is all they ask.

The CHAIRMAN. We tried in the last appropriation bill and got all the figures together and endeavored to cancel something like \$8,000,000 worth of items that had been spent in behalf of the Indians as gratuities, some of them under the guise of reimbursables, but we were unable to do it, due to the same thing that killed the bill on the floor the other day. So it might be possible in cases of this kind to set up against the Indian claims moneys that have heretofore been appropriated, either as gratuities or as gratuities under the guise of reimbursables.

Mr. KELLY. I think that amendment should be in, Mr. Chairman, by all means.

The CHAIRMAN. We will pass it for further consideration, but I think, since Mr. Ballinger says that the Supreme Court has held that to be the law if he will point out the law or the decisions of the court and send it to the chairman of the committee here we would be glad to have that information. We may have it here now.

Mr. BALLINGER. I shall be glad to do that.

Mr. MERITT. Will you furnish us with a copy of that, Mr. Ballinger?

Mr. BALLINGER. In conducting a case, Mr. Meritt, I always furnish my adversary with a copy of anything I leave with the court or committee.

In line 22, page 2, after the word "amendment," insert the words "at any time during the progress of the suit."

Mr. Chairman, I deem that important for this reason: That many of the records in connection with this controversy are buried in the department, and if during the progress of the suit new matters may come to the front, either in favor of the Government or in favor of the Indians, that ought to go before the court, we can amend our bill and put them in and get them before the court.

Mr. MERITT. We have no objection to that amendment. We also have no objection to the other amendment, Mr. Chairman, if the Supreme Court has rendered the decision that Mr. Ballinger states it has.

Mr. BALLINGER. On page 3, line 11, strike out the words "for the purpose of making" and insert in lieu thereof the words "and shall furnish such certified."

In line 11, after the word "thereof," insert the words "free of cost." So that lines 10, 11, and 12 will read, "shall give the attorney or attorneys of said tribe or bands thereof access to any letters, papers, documents, or public records and shall furnish such certified copies thereof free of cost as such attorney or attorneys may deem necessary."

Mr. Chairman, it is incumbent upon the attorney to pay all the costs of this litigation, and if in addition to the ordinary costs he has got to go up there and pay the department for each certification and copy, it would cost probably \$25,000 in certifications.

Mr. MERITT. We have no objection to that amendment with this understanding, that the attorneys will not burden the department unnecessarily by asking for papers that are not necessary in the litigation. The attorneys in this case could keep all the clerks of the department busy copying files, because our files are full of Chipewewa papers.

The CHAIRMAN. Who is going to determine the question?

Mr. BALLINGER. If an unreasonable request was submitted, the department would refuse it, and then we would have to go over to the court, and the court would say whether or not it was a reasonable or unreasonable request.

Mr. MERITT. With that statement in the record we have no objection to the amendment.

The CHAIRMAN. Now what have you next, Mr. Ballinger?

Mr. BALLINGER. On page 3, renumber section 3 as section 12.

On page 4, renumber section 4 as section 13.

On page 4, lines 8 and 9, strike out the words "under contract or contracts made and approved, as provided by existing law," and insert in lieu thereof the words "by their general council."

Now, Mr. Chairman, I want to call your attention to this, because this same question will arise in connection with three different provisions in the bill—I want the committee to know exactly what we are asking here—the section commences:

That upon the final termination of such suit or suits, the Court of Claims shall fix and determine such fees as it shall deem fair and reasonable for the services rendered and moneys expended in the prosecution of such suit or suits, to be paid the attorney or attorneys employed therein by said tribe or band of Indians.

Now, there the court has the exclusive power of saying what is just compensation, and that is fair because when the services have all been rendered before the court, the court is then in a better position than any other tribunal to say what is just compensation to the attorney. But the department wants this language included: "under contract or contracts made and approved as provided by existing law." With that language it would be necessary for me, for instance, or the attorney representing these Indians, to first enter into a contract with the Indians providing a percentage of compensation; then to take that to the department without one particle of work having been done, and the department, projecting its mind into the future, fixing the amount of the fee; then when we come back to the court, the court would necessarily consider what the department thought was fair in the first instance. That would all be taken into consideration by the court, and then it would allow the attorney his fee, but in no event could the department or anyone else go over 10 per cent.

Mr. KELLY. Under this provision here would the department have the power to say anything concerning the attorney to be selected?

Mr. BALLINGER. Yes, sir. That is the very object of the provision. The department—and it has done that before—could say to the general council of the Chippewa Indians, after it had selected and entered into a contract with an attorney: "No, we will not approve a contract with that attorney. You must select someone else." I recall, Mr. Chairman and gentlemen of the committee, back under an administration of that department where a former member of the House of Representatives, one of the most distinguished lawyers from his section of the country, had a contract with the Cherokee Indians in Oklahoma, but because the Secretary of the Interior didn't personally like him, he rejected and turned down the contract, and a gentleman from the secretary's own home town obtained that employment.

Now I want to say to you that I am making these observations irrespective of any personal interest. I do not know that I would personally care to undertake this litigation. It is going to be immense litigation and require an enormous amount of work, and I do not know whether I would undertake it. It would depend entirely upon the condition of my health and my other business affairs. But I say this in common fairness to my clients, that they ought not to be put in the position where the department can select for them the attorney who is to prosecute a case against the department.

Mr. MERITT. Mr. Chairmen and gentlemen of the committee, we went over this legislation very carefully with Mr. Ballinger, and we agreed on this provision in the bill. Now, after reaching that agreement Mr. Ballinger comes before the committee and suggests this change. This is an exceedingly important change in this proposed legislation which will establish a precedent that will be very dangerous indeed in connection with Indian claims against the Government. Under existing law sections 2103, 2104, 2105, and 2106, of the Revised Statutes prescribes the legal process by which attorneys may enter into contracts to represent Indian tribes before the courts. The experience of the department in handling Indian Affairs has demonstrated conclusively that that legislation now on the statute books is exceedingly wise. Congress has in the past made exceptions to that rule, as is proposed here in this bill.

Mr. KELLY. Right there, Mr. Meritt, those sections in the statutes do not take into consideration at all that any court is going to fix the fee to be paid of less than 10 per cent of the amount recovered.

Mr. MERITT. The statute requires certain legal formalities to be followed which are very necessary in order to protect the interests of the Indians and the Government.

Mr. KELLY. Unless some court is also going to have something to say about it.

Mr. MERITT. Just such an amendment as Mr. Ballinger has suggested here has in the past resulted in scandal. As I have pointed out to this committee in this hearing, in the Ute judgment case the attorneys recovered a fee of a quarter of a million dollars. In a certain Oklahoma case the attorneys recovered a fee of three-quarters of a million dollars, \$750,000 attorney fees.

Mr. KELLY. Did any court have the power to review that and fix the fee?

Mr. MERITT. The fees in those cases were fixed by the same court that Mr. Ballinger now proposes shall fix the fee in this case.

Mr. KELLY. Did they have authority under the legislation to fix the fee?

Mr. MERITT. They did, and they did fix the fee.

I called the attention of the committee a few days ago to the fact that there were a large number of outstanding illegal contracts with Indian tribes, and if they can establish this precedent in this legislation it breaks down the jurisdiction of the Interior Department over these contracts and will result in great scandal in connection with Indian affairs.

Mr. KELLY. Let me ask just this for my own information. I want to get the facts of this matter.

Here is a case in which one contention is upheld by the Indian Bureau. Now, under the provision that the Secretary of the Interior has practically the power to select the attorneys, he is going to have both sides of the contention without the Indians being given their side of it.

Mr. MERITT. They make that argument, gentlemen of the committee, but that does not work out in practice. We are quite willing for the Chippewa Indians to select their own attorney, and we are quite willing that that attorney shall be Mr. Webster Ballinger, if agreeable to the Chippewa Indians and to Mr. Webster Ballinger, but we want that contract approved according to existing law, and so that those forms and regulations prescribed by law may be followed. No tribe of Indians in this country that needs an attorney will have any trouble in getting an attorney. For example, when it was clearly demonstrated that the Red Lake Indians needed an attorney to protect their interests, they had no trouble in getting an approved contract through the department under existing law, but the interests of the Red Lake Indians are protected in that contract, and the interests of the Government are protected.

Mr. KELLY. That is what I was going to ask, have there been cases in your knowledge where the department used its authority to refuse to allow Indians to employ the attorney of their choice?

Mr. MERITT. Since my connection with the department in an administrative position I know of no such case. It might have happened years ago, but a thing like that would not happen now.

The CHAIRMAN. I think you are overlooking the Osages, aren't you?

Mr. BALLINGER. Don't you know that Judge Springer came up with an approved contract, a contract made with the Cherokees, and that the then Secretary of the Interior refused to approve it and turned around and approved a contract with a gentleman from his home town?

Mr. MERITT. That was before my time, and I do not know anything about the case.

Now as to the Osage Indians, the department has taken the position that it is perfectly willing that the Osage Indians shall have an attorney, but there is a desperate factional fight among the Osage Indians. The mixed blood Osage Indians have attempted to name a man who is objectionable to the other faction, the full bloods. The mixed bloods selected an attorney who had fought against the inter-

ests of the Indians, in a tax suit in a case where the department had taken the other side and has recently won that case in the Supreme Court of the United States against the contentions of this attorney that the mixed bloods attempted to employ. The Osages will have no trouble at all in selecting an attorney if they will simply get together and select a reliable man.

Mr. KELLY. And the Secretary will say who the reliable man is—whether he is reliable.

Mr. MERITT. We will not attempt to dictate who that man shall be, but the department will take the position that an attorney should not be employed where there are certain valid and substantial reasons why he should not be so employed.

Mr. KELLY. Personally, Mr. Chairman, I would rather see a limitation placed of 1 per cent under the Court of Claims than to give the power into the hands of the Secretary of the Interior to name the attorney.

Mr. RHODES. Mr. Meritt, does this same law which authorizes the department to approve the attorney's contract, also give you authority to fix the fee?

Mr. MERITT. We can fix the fee, but in our—

Mr. RHODES (interposing). You say you can or can not?

Mr. MERITT. We can under the law fix the fee, but as a matter of fact we would work this fee proposition out so that the Court of Claims and the Secretary of the Interior would adjust the matter.

Mr. RHODES. I am speaking of existing law. Under existing law, does the department have the right to fix the attorney's fee?

Mr. MERITT. We can fix the attorney's fees under existing law, or we can have an arrangement with the Court of Claims and reach an agreement.

Mr. RHODES. What are you doing? Are you exercising that authority yourselves, or are you exercising it jointly with the Court of Claims?

Mr. MERITT. We sometimes exercise it jointly with the Court of Claims. We sometimes designate a certain salary that shall be paid the attorneys, or we sometimes designate the limit of the percentage that shall be paid, depending upon each individual case and the work to be performed.

The CHAIRMAN. The usual practice is to consult with all the parties, even with the attorney himself?

Mr. MERITT. Yes, sir.

The CHAIRMAN. And you usually come to an agreement?

Mr. MERITT. The attorney that would be employed here would have a say as to the terms of the contract when he entered into the contract.

Mr. BALLINGER. And you could say who the attorney would be.

Mr. MERITT. I have stated that there would be no objection to your employment as attorney in this matter.

Mr. RHODES. One other question, Mr. Meritt. In the fixing of these contingent fees, do you undertake to fix that fee before the work is done, or is it fixed after the service is rendered?

Mr. MERITT. We would in this case—

Mr. RHODES (interposing). No; I am talking about under existing law and practice.

Mr. MERITT. As I stated before, we do not have any definite practice on that. It depends upon the case in hand.

Mr. RHODES. Very well. When do you think the court, or the department, either, as the case may be, would be best prepared to determine just compensation, before the service is rendered or after the service is rendered?

Mr. MERITT. After the service is rendered. But we would want the forms of the law complied with.

The CHAIRMAN. As I understand it, whatever fee you agree upon, it is subject to final review in court?

Mr. MERITT. Not always; but in this case the Secretary of the Interior, the Commissioner of Indian Affairs, and the Court of Claims would probably cooperate in determining what would be a reasonable and just compensation.

Mr. KELLY. How could you cooperate with the Court of Claims if Mr. Ballinger brings in a contract into which he has entered with the Indians before any services are rendered at all, and you must approve it?

Mr. MERITT. We could have the terms of the contract so and so.

Mr. KELLY. That is, on a percentage basis?

Mr. MERITT. On a percentage basis. Not to exceed a certain percentage.

Mr. KELLY. Then you would approve it before any services were rendered at all?

Mr. MERITT. Yes, sir. They attempt to do the same thing right here in this legislation.

The CHAIRMAN. Now, gentlemen, the time for recess has arrived. We can not finish this matter to-day, and we have another matter to take up to-morrow. Now, I would like to ask Mr. Meritt how long do you think it will take to finish that Crow proposition?

Mr. MERITT. I think we will be able to finish that in an hour.

The CHAIRMAN. Then if the parties to this matter are here, they can step right in and we will try to finish both of them to-morrow, and we will now recess until 10.30 to-morrow morning.

(Whereupon, at 1.05 o'clock p. m., the committee recessed until 10.30 o'clock a. m., Friday, March 19, 1920.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
March 19, 1920.

The committee this day met, Hon. Homer P. Snyder (chairman), presiding.

The CHAIRMAN. We will continue with the Chippewa hearing that was adjourned last evening. Proceed, Mr. Ballinger.

STATEMENT OF MR. WEBSTER BALLINGER—Resumed.

Mr. BALLINGER. I want to ask the advice of the committee whether at this point I might insert in the record an extract from a decision that I think will answer Mr. Kelly's question propounded to me yesterday.

The CHAIRMAN. Before you do that I would like to have the clerk point out where we stopped yesterday on this matter.

Mr. MERITT. Page 4 of the jurisdictional bill.

Mr. BALLINGER. Mr. Chairman, the question was asked in connection with the amendment proposed by the general council in line 19, page 2, of the jurisdictional bill, and a question also propounded by the chairman was whether or not the word "gratuity" as it appears on that page would enable the court to render judgment against the Indians for every dollar that had been appropriated and expended in connection with the tribe from its beginning. I cite now the case of the United States *v.* Sisseton and Wahpeton Indians, reported in 208 U. S., commencing at page 561. The first jurisdictional act was passed March 3, 1901, and authorized the court to state an account and to submit its findings to Congress. In the stating of the account this provision was contained in the jurisdictional act:

Stating in connection therewith what credits should be charged against the said gratuities on account of the lands, appropriations, payments, gratuities or other provisions as hereinbefore stated.

A suit under that jurisdictional act was brought in the Court of Claims. During the progress of that case it became apparent that under the word "gratuities" as used in the jurisdictional act the court would make a finding charging the Indians with every dollar appropriated by Congress in connection with the tribe. The attorneys for the Indians at that stage came back to Congress and secured a new jurisdictional act under date of June 21, 1906, reiterating the same language and with this addition, "which are properly chargeable against said unpaid annuities."

The attorneys believed that that language would afford them relief against the court charging the Indians up with all gratuity appropriations.

When the case came before the court under the new jurisdictional act, the contention of the Indians was as stated in the decision, which I will read from page 564. The court said:

The Indians contend that only sums specially charged by Congress against annuities come into the account while the United States goes to the opposite extreme. We agree with the Court of Claims that the contention of the Indians, at least, must be rejected for the reasons stated by it that if it was correct Congress did not need the help of the court. The figures were patent.

So that if this bill should stand as the department asks that it stand every dollar appropriated by Congress from the inception of the Government's dealings with the Chippewas for the support of the agents and agency employees would be charged against any judgment the Indians might obtain against the Government, Mr. Chairman, which would be manifestly unfair. Every dollar that Congress in any act declares should be chargeable or that the Indians understood when they used the money was to be reimbursed or was chargeable against them ought to be charged and not another dollar.

Mr. MERITT. Mr. Chairman, I think it is unnecessary to go into this matter. I stated to the committee that we would have no objection to the item going in the bill.

Mr. KELLY. Let me have that information. I made a direct statement to Mr. Mann on the floor and it may be possible it is just what I wanted on it. The statement was that without the words "including gratuities in this act or bill the Court of Claims would consider gratuities anyhow. I have quoted the decision. Does that cover it?

Mr. BALLINGER. I think it would.

The CHAIRMAN. I think that is as far as you can go.

Mr. KELLY. I think that would cover it and there is no question there.

The CHAIRMAN. What is the next item? If Congress can make an amendment on that, that is the important thing in there.

Mr. BALLINGER. That is one of the important things, but the matter under consideration is a most important one. The amendment that was under consideration is on page 4, lines 8 and 9, strike out the words "under contract or contracts made and approved as provided by existing law," jurisdictional bill, H. R. 12972. The general council asks that the words be inserted "by their general council" so that it would read:

That upon the final determination of such suit or suits the Court of Claims shall fix and determine such fees as it shall deem fair and reasonable for the service rendered and money expended in the prosecution of such suit or suits to be paid the attorney or attorneys employed therein by their general council.

The insistence of the Indian Bureau that the words "Under contract or contracts made and approved as provided by existing law" be retained would require the approval of the contract under sections 2101 to 2107 of the Revised Statutes. As this same question arises in connection with two or three sections of the bill I am going to ask the indulgence of the committee for a few moments, so that I may make the position of the general council clear as far as I can. This section of the Revised Statutes, section 2101, was a part of the act enacted April 10, 1869; section 2102 was a part of the act enacted May 15, 1870; section 2103 was a part of the act enacted March 3, 1871; section 2105 was a part of the act enacted March 3, 1871, and likewise section 2107.

Now, Mr. Chairman, at that time the department held the funds of the Indians under its control. It could make contracts with an attorney or other person and without authorization of Congress pay the contract money out of the tribal funds. Those sections were designed and intended to deal with a situation that existed then and which has no existence to-day. For instance, contracts made now for the payment of money, tribal money, must come to Congress and the money be appropriated by Congress, so that there is that safeguard now which did not exist at that time. Had it existed at that time these sections would probably not have been rendered necessary for the protection of the Indians, and the only object and purpose of those sections was to first see that some competent tribunal could first determine that an attorney was necessary, and, second, to see that the compensation was fair and just.

In the present case the only object of the department in asking the approval of this contract, the only object which it can possibly have, is to control the employment of the attorney; that is, to name the attorney, because under the provision as the department itself proposes, the court is to fix the fee, not the department. Therefore the only function the department could exercise under this provision with the language included as the department asks is that they can control the attorney to be employed.

Mr. MERITT. I deny that statement absolutely. Mr. Chairman, in order that the committee may have some exact information about

these laws and their applicability at this time, I will not take the time to read them, but I will place them in the record.

The CHAIRMAN. You might just give us a general idea by reading a small part of the section which refers to it.

Mr. MERITT. Section 2103 of the Revised Statutes reads as follows [reading]:

SEC. 2103. No agreement shall be made by any person with any tribe of Indians, or individual Indians not citizens of the United States, for the payment or delivery of any money or other thing of value, in present or in prospective, or for the granting or procuring any privilege to him, or any other person in consideration of services for said Indians relative to their lands, or to any claims growing out of, or in reference to, annuities, installments, or other moneys, claims, demands, or thing, under laws or treaties with the United States, or official acts of any officers thereof, or in any way connected with or due from the United States, unless such contract or agreement be executed and approved as follows:

First. Such agreement shall be in writing and a duplicate of it delivered to each party.

Second. It shall be executed before a judge of a court of record and bear the approval of the Secretary of the Interior and the Commissioner of Indian Affairs indorsed upon it.

Third. It shall contain the names of all parties in interest, their residence and occupation; and if made with a tribe, by their tribal authorities, the scope of authority and the reason for exercising that authority, shall be given specifically.

Fourth. It shall state the time when and place where made, the particular purpose for which made, the special thing or things to be done under it, and, if for the collection of money, the basis of the claim, the course from which it is to be collected, the disposition to be made of it when collected, the amount or rate per cent of the fee in all cases; and if any contingent matter or condition constitutes a part of the contract or agreement it shall be specifically set forth.

Fifth. It shall have a fixed limited time to run, which shall be distinctly stated.

Sixth. The judge before whom such contract or agreement is executed shall certify officially the time when and place where such contract or agreement was executed and that it was in his presence and who are the interested parties thereto, as stated to him at the time; the parties present making the same; the source and extent of authority claimed at the time by the contracting parties to make the contract or agreement and whether made in person or by agent or attorney of either party or parties.

All contracts or agreements made in violation of this section shall be null and void, and all money or other thing of value paid to any person by any Indian or tribe, or anyone else, for or on his or their behalf, on account of such services, in excess of the amount approved by the commissioner and Secretary for such services, may be recovered by suit in the name of the United States in any court of the United States regardless of the amount in controversy; and one-half thereof shall be paid to the person suing for the same and the other half shall be paid into the Treasury for the use of the Indian or tribe by or for whom it was so paid.

SEC. 2104. No money shall be paid to any agent or attorney by an officer of the United States under any such contract or agreement, other than the fees due him for services rendered thereunder; but the moneys due the tribe, Indian, or Indians, as the case may be, shall be paid by the United States, through its own officers or agents, to the party or parties entitled thereto; and no money or thing shall be paid to any person for services under such contract or agreement until such person shall have first filed with the Commissioner of Indian Affairs a sworn statement, showing each particular act of service under the contract, giving date and fact in detail, and the Secretary of the Interior and Commissioner of Indian Affairs shall determine therefrom whether, in their judgment, such contract or agreement has been complied with or fulfilled; if so, the same may be paid, and, if not, it shall be paid in proportion to the services rendered under the contract.

SEC. 2105. The person so receiving such money contrary to the provisions of the two preceding sections, and his aiders and abettors, shall, in addition to the forfeiture of such sum, be punishable by imprisonment for not less than six months and by a fine of not less than \$1,000 * * *.

I think that is enough to read.

Now, Mr. Chairman, the statement that Mr. Ballinger made that Congress would control the amount of money that would be paid to the attorneys under that provision is also misleading. Congress would have absolutely nothing whatever to do with the fee that the

attorney under that wording would get. If this jurisdictional bill goes through, as Mr. Ballinger desires it to go through, and worded as Mr. Ballinger wants it worded, the Government of the United States might have to pay the Chippewa Indians anywhere from five to ten million dollars, and 10 per cent of the \$10,000,000 judgment would be \$1,000,000.

We want to avoid just such scandals in the future as we have attempted to avoid in the past, and these scandals have cropped out in connection with these attorney contracts every time Congress has failed to provide for legislation according to the existing law and every time they have placed in the legislation language along the lines that Mr. Ballinger is now suggesting.

Mr. KELLY. Do you contend that 10 per cent is an unfair proposition to pay in this kind of litigation?

Mr. MERITT. I would say that any attorney who receives a fee of \$750,000, as they did receive under legislation by Congress a few years ago containing language similar to this, would receive excessive fees. Now, in order that the committee may appreciate what this language really means, I wish they might get out the congressional report, the report filed, I think, by the former chairman of this committee, Hon. Charles Burke, and also read his speeches on the floor of the House of Representatives showing what scandals have developed in the past because of the legislation along the lines that are proposed in this bill.

Mr. KELLY. As these scandals originated, was there a strict provision in the law that the Court of Claims or any other court should fix a certain percentage?

Mr. MERITT. Yes, sir.

Mr. KELLY. Ten per cent?

Mr. MERITT. Yes, sir. As I have stated before, this is a very important matter. There are certain attorneys who have gone out on various Indian reservations and used these mixed-blood Indians as tools and have gotten contracts that if they can get through Congress under the language contained in this bill will result in the attorneys getting fees amounting to millions of dollars.

Mr. KELLY. Would you consent to making the limitation 5 per cent instead of 10 per cent?

Mr. MERITT. I think the legislation should follow the usual language in these jurisdictional bills and be governed by the laws now on the statute books.

Mr. KELLY. My point is, that I would be very strong for the legislation that is on the books if there were not a better way of guarding the interests of the Indians. If Mr. Synder is a regularly appointed guardian of a child and is in certain litigation in which he names the attorney for the ward he would have a tremendously unfair advantage on this proposition. Now, we are in the same position. They claim that an injustice can be done and for that reason they insist upon naming the attorney.

Mr. MERITT. We do not intend to name the attorney. We do not propose to interfere with the Chippewa Indians naming the attorney. But when we approve a signed contract it will be so guarded that there will be no scandals in connection with it.

Mr. KELLY. That is my only point to see that they name their attorney.

Mr. MERITT. As I stated both yesterday and to-day, they will have the opportunity to name their attorney but the contract should be approved by the Commissioner of Indian Affairs and Secretary of the Interior so that there will be no more scandals. Our experience in the past with these contracts has been such that we must be very careful in this matter.

Mr. KELLY. I appreciate that.

Mr. MERITT. Do not take my word for it. Take the word of the former chairman of this committee, Hon. Charles H. Burke. I believe that no man ever in Congress would cast any reflection upon Mr. Burke's ability in regard to Indian matters or his honesty of purpose or sterling character. His speeches on the floor of the House of Representatives show the conditions that have obtained in the past and it would be very interesting to the members of this committee to read the congressional reports, and the reports of the members of this committee who have met these propositions in the past.

The CHAIRMAN. Is there anything further you desire to say?

Mr. MERITT. I desire to say this, Mr. Chairman. If this provision that Mr. Ballinger suggests is carried in this bill it will be the duty of the department to submit an adverse report on this legislation and we will feel it to be our duty to the Government and to the Indians of this country to oppose this legislation with all the power that we possess, not only before this committee and on the floor of the House, but before the Senate committee and on the floor of the Senate; and, the commissioner has said that before he will permit these outrageous outstanding contracts to be legalized he will take the matter to the President of the United State, if necessary.

The CHAIRMAN. Now, we will hear Mr. Ballinger.

Mr. BALLINGER. Of course, it is interesting to the Chippewa Indians to learn that the Indian Bureau is the boss and that the Congress must do its bidding.

Mr. MERITT. Not at all. I meant no such reflection in my statement.

Mr. BALLINGER. Mr. Chairman, observe the language on page 4, section 13,

That upon the final determination of such suit or suits the Court of Claims shall fix and determine such fees as it shall deem fair and reasonable for the services rendered and moneys expended in the prosecution of such suit or suits.

That gives the Court of Claims a free hand to fix the fee not exceeding 10 per cent. That takes away from section 2103 every essence of power that Congress intended by that section 2103 to confer upon the department, so that in the approval of the contract the department could not put a limitation on the payment. The court would fix the fee; it is free and untrammelled.

Therefore, there is and can be no merit in the contention of the department that by this language which they ask to have included in here they are protecting the Indian. Mr. Meritt is wrong in the statement to this committee that frauds and large fees have been allowed under language similar to that which the general council asks to have inserted.

In the jurisdictional bills under which these fees against which he complains were allowed, either no limitation was placed upon the allowance of fees or the act fixed a limitation of 25 or 30 and even as

high as 35 per cent. Now, Mr. Chairman, in the prosecution of the proposed suits, all of the expenses incident to the litigation must fall upon the attorney who takes his chances on winning on a contingent basis. The expense of this litigation in my judgment will run as high as \$75,000. That the attorney must lay out himself in the hope that he is going to win and no man who had not looked into these cases and knew what he was doing would make such an outlay of money on a contingency. Mr. Meritt talked about a man who had gone over these Indian reservations and acquired large contracts and spoke about the possible fraud and scandal that might result, and I pause to ask him if that same man is not the only man who has been able to obtain a contract from the Indian Bureau in the last two years?

Mr. MERITT. No, sir; the man that I have in mind has not obtained any contract from the Indian Bureau.

Mr. BALLINGER. Will you name that man?

Mr. MERITT. I do not care to mention names, Mr. Chairman.

The CHAIRMAN. You name him.

Mr. BALLINGER. My information is he is Mr. Evans; am I correct?

Mr. MERITT. Mr. Evans has not obtained any approved contract from the Indian Bureau.

Mr. BALLINGER. Were not the contracts taken in his name that you referred to?

Mr. MERITT. My statement is that Mr. Evans has not obtained any approved contracts from the bureau or the Interior Department regarding attorney claims.

Mr. BALLINGER. Did he not obtain an approved contract for the Red Lake Indians?

Mr. MERITT. No, sir.

Mr. BALLINGER. My information is, Mr. Chairman, that all of this indirection and innuendo that you have heard from the Indian office was leveled at Mr. Evans and that Mr. Henderson has been the man who has taken the contracts as representing Mr. Evans throughout.

The CHAIRMAN. Mr. Henderson is here.

Mr. BALLINGER. If I have done Mr. Henderson an injustice I will be glad to be corrected.

Mr. HENDERSON. Mr. Henderson will be glad to answer any question that the members of the committee desire to ask him.

Mr. KELLY. I will ask the question. Are you directly related in contracts with Victor Evans? Are you connected or acting as a representative of Mr. Evans in any contracts which have been approved by the Indian Bureau?

Mr. HENDERSON. Yes, Mr. Kelly. I am Mr. Evans's counsel in many matters, including contracts that have been made between Indian tribes and Mr. Evans.

Mr. KELLY. With the Red Lake Indians?

Mr. HENDERSON. No; they have no interest whatever. Mr. Evans has no interest whatever in the Red Lake contract nor any Chippewa contract that I know anything of.

Mr. KELLY. You have never had any trouble in getting the approval of the Indian Bureau on your contracts as counsel for Mr. Evans?

Mr. HENDERSON. I have never had a contract approved by the Indian Bureau until recently when a contract between the Red Lake Indians and myself was approved by the bureau.

The CHAIRMAN. That answers both questions.

Mr. KELLY. Then Mr. Ballinger's statement is wrong that the Indian Bureau has not approved any contract or interest to Mr. Evans.

Mr. HENDERSON. Not that I know of. I do not think Mr. Evans has ever had a contract or ever expected the Indian Bureau to approve one.

Mr. MERITT. I might add that the Red Lake Indians requested Mr. Henderson to represent them in this matter because of the experience that he had in previous Chippewa litigation. He is thoroughly familiar with Chippewa matters, and the representative of the Red Lake Indians requested the Indian office to approve a contract with Mr. Henderson, and I think the solicitation came from the Red Lake Indians rather than the solicitation of employment coming from Mr. Henderson.

The CHAIRMAN. Gentlemen, how much more time is it going to take on this proposition?

Mr. BALLINGER. I think in clearing up this one matter that we will pass pretty rapidly over the rest of the bill.

The CHAIRMAN. I suggest then that it go over to Monday morning.

Mr. RHODES. Mr. Henderson, did you understand the attorney to whom Mr. Meritt refers as having received a \$750,000 fee is Mr. Victor J. Evans.

Mr. HENDERSON. No; Mr. Evans had never received any money from any Indian contracts of any sort.

Mr. MERITT. I can answer that directly. Mr. Victor J. Evans was not in mind when I made the statement in regard to the \$750,000 fee or the \$250,000 fee.

The CHAIRMAN. We will close the hearing for the present right where it is until Monday morning at 10.30 o'clock.

(Thereupon, at 12.45 o'clock p. m., the committee adjourned to meet again at 10.30 o'clock Monday, March 22, 1920.)

COMMITTEE ON INDIAN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Monday, March 22, 1920.

The committee met at 11 o'clock a. m., Hon. Homer P. Snyder (chairman) presiding.

The CHAIRMAN. The committee will resume its hearings on the Chippewa investigation. At the close of the last hearing we were going through the jurisdictional bill and had arrived at page 4, lines 8 and 9.

Present: Mr. E. B. Meritt, Mr. Webster Ballinger, and Mr. Daniel W. Henderson.

Mr. BALLINGER. Mr. Chairman, just one word and I will conclude my statement with reference to that amendment—and the same applies to other amendments later on in the bill.

Reference has been made by Mr. Meritt to two cases in which it has been claimed that exorbitant fees have been allowed by the Court of Claims. I take it that Mr. Meritt referred, though he did not state the case, to the fee allowed in the Choctaw-Chickasaw citizenship court of \$750,000. That is one of the cases, is it not, Mr. Meritt?

Mr. MERITT. Yes; but I did not state that the Court of Claims made that award in that case.

Mr. BALLINGER. That award was made by a special tribunal.

The provisions of the jurisdictional act are found in volume 32, United States Statutes at Large, pages 995 and 996. In the jurisdictional act there was no limitation placed upon the court at all as to the amount of the fee to be allowed, as is the case in the draft of the bill before the committee.

The other case referred to was the case of the confederated bands of Ute Indians. Am I correct on that, Mr. Meritt?

Mr. MERITT. That is one of the cases I had in mind.

Mr. BALLINGER. The jurisdictional act in that case is found in 35 Statutes at Large, pages 788 and 789; and in that jurisdictional act there was no limitation whatever placed upon the fee. Further, in both of these acts, as I now recall, the courts were authorized to take into consideration the contracts. So the provision of the pending bill differs very materially from the two jurisdictional acts in which these fees were allowed.

Now, Mr. Chairman, the next amendment—

Mr. MERITT (interposing). Are you leaving the attorney question there?

Mr. BALLINGER. Yes.

Mr. MERITT. Mr. Chairman, it should be pointed out in connection with Mr. Ballinger's statement that these jurisdictional acts that he has referred to did not require the approval of those attorney contracts, in accordance with existing law, sections 2103, 2104, 2105, and 2106 of the Revised Statutes; and my point was this, that because of that fact the Indian Bureau was not in a position to protect the interests of the Indians, and these large attorney fees were the result.

Again, Mr. Chairman, Mr. Ballinger referred to sections 2103, 2104, 2105, and 2106, of the Revised Statutes the other day as being old legislation on the Statute books, and implied that they were not applicable to present conditions. I want to emphasize the fact that those laws are just as applicable to present conditions as they were when they were enacted, and are probably more needed now than they were when they were enacted, because there are more outstanding illegal attorney contracts.

Besides, gentlemen of the committee, Congress has recently placed itself upon record in regard to these attorney contracts after a very careful investigation, and the legislation placed on the statute books is found in the act of June 30, 1913 (38 Stat., p. 97), and reads as follows:

No contract made with any Indian, where such contract relates to the tribal funds or property in the hands of the United States, shall be valid, nor shall any payment for services rendered in relation thereto be made unless the consent of the United States has previously been given.

That, gentlemen of the committee, is a confirmation of the principle contained in the old statutes, sections 2103, 2104, 2105, and 2106 of the Revised Statutes, and that legislation was not enacted without very careful consideration.

I have recently called attention of the committee to the scandals in connection with attorney contracts, and in order that the committee may have a reference to some of the recent reports by the committees of Congress—by the Indian Committees of Congress, if you please—I

would invite the attention of the committee to this Report No. 2273, Sixty-first Congress, third session, consisting of two volumes, and it would be very interesting to the members of this committee to glance over these reports and see what has been in the past in regard to attorney contracts that were not under the control of the Indian Bureau. In order that they may appear in the record—at least a part of the report of this committee of Congress—I am going to ask the privilege of reading about a page and a half of this report. The report is signed by the former chairman of this committee, Hon. Charles H. Burke, Hon. Phillip Campbell, who is now a member of this committee, Hon. C. B. Miller, a former Member of Congress from Minnesota, and Hon. E. W. Saunders, recently resigned from this Congress, from the State of Virginia. This report reads in part as follows:

INDIAN CLAIMS—CONTINGENT FEES.

The committee made inquiry for the purpose of ascertaining to what extent appropriations have been made by Congress in recent years for the payment of Indian claims, together with the amount of attorney's fees paid. (See testimony, pp. 605-607.) The fees referred to in the testimony amount to nearly \$1,000,000 and some of them were exorbitant, unconscionable, and in contravention of public policy, notwithstanding the fact that they had the direct or indirect approval of Congress.

Many Indian claims, antiquated and without meritorious basis, have been trumped up against the Government by industrious attorneys, claim agents, and professional lobbyists, until there is now pending, in one form or another, in the departments and before Congress, claims of this character amounting to many millions of dollars.

In the present Congress scores of bills have been introduced on the subject of these antiquated claims, for no other purpose than to provide a dragnet for obtaining information from the departments with the object of bolstering up these questionable claims, and if an adverse report on one of these bills is authorized by the Committee on Indian Affairs, forces are immediately put in motion in behalf of the same purpose and another bill of the same import is likely to be introduced in the name of some accommodating Member of Congress who gives the matter slight consideration, depending on the Committee on Indian Affairs to sift the facts and dispose of the bill. The practice of lobbyists has become so bold that it has happened since this report has been in process of formulation for submission to this House, an adversely reported bill has been succeeded on the committee's calendar by another of similar import without even the knowledge of the Representative in whose name it was introduced. In case of adjournment of Congress without any action by the committee, other bills make their appearance in the succeeding Congress, and so the procedure continues indefinitely in the hope that ultimately a committee and a Congress may be found that will provide the appropriation with the contingent fee attachment.

Of course, the purpose of those actively engaged in exploiting such claims is to obtain the fee contracted for upon a contingent basis. The effect of such compensation for adventurers who, quoting the language of the Supreme Court of the United States, "make market of themselves in this way," should receive the careful consideration of Congress. The committee is of the opinion that the court could not have expressed itself more pertinently to many contracts which have been the subject of investigation by this committee within the past eight months than it did in the case of *Marshall v. Baltimore & Ohio Railroad Co.* (57 U. S., 314, 335), when it said:

"Bribes, in the shape of high contingent compensation, must necessarily lead to the use of improper means and the exercise of undue influence. Their necessary consequence is the demoralization of the agent who covenants for them; he is soon brought to believe that any means which will produce so beneficial a result to himself are 'proper means;' and that a share of these profits may have the same effect of quickening the perceptions and warming the zeal of influential or 'careless' Members in favor of this bill."

Again, in the case of *Trist v. Child* (21 U. S., 441, 451) the court expressed itself as follows:

"The agreement in the present case was for the sale of the influence and exertions of the lobby agent to bring about the passage of a law for the payment of a private claim, without reference to its merits, by means which, if not corrupt, were illegitimate, and, considered in connection with the pecuniary interest of the agent at stake, contrary to the plainest principles of public policy. No one has a right, in such circumstances,

to put himself in a position of temptation to do what is regarded as so pernicious in its character. The law forbids the inchoate step, and puts the seal of its reprobation upon the undertaking."

In the same case the court continued by making the following observations:

"If any of the great corporations of the country were to hire adventurers who make market of themselves in this way to procure the passage of a general law with a view to the promotion of their private interests, the moral sense of every right-minded man would instinctively denounce the employer and employed as steeped in corruption, and the employment as infamous. * * *

"The prohibition of the law rests upon a solid foundation. A private bill is apt to attract little attention. It involves no great public interest, and usually fails to excite much discussion. Not unfrequently the facts are whispered to those whose duty it is to investigate, vouched for by them, and the passage of the measure is thus secured. If the agent is truthful, and conceals nothing, all is well. If he uses nefarious means with success, the springhead and the steam of legislation are polluted. To legalize the traffic of such service would open a door at which fraud and falsehood would not fail to enter and make themselves felt at every accessible point. It would invite their presence and offer them a premium. If the tempted agent be corrupt himself, and disposed to corrupt others, the transition requires but a single step. He has the means in his hands, with every facility and a strong incentive to use them. The widespread suspicion which prevails, and charges openly made and hardly denied, lead to the conclusion that such events are not of rare occurrence. Where the avarice of the agent is inflamed by the hope of a reward contingent upon success, and to be graduated by a percentage upon the amount appropriated, the danger of tampering in its worst form is greatly increased."

The case of Adams, with contracts for claims representing more than \$20,000,000 in which he has a contingent interest ranging from 10 to 35 per cent, presents a good example of the necessity and advisability of enacting legislation limiting the fees that shall be paid in any case, and the committee recommends that the subject have careful consideration by Congress and that legislation be enacted with this purpose in view.

Gentlemen of the committee, that is the language of the report.

The CHAIRMAN. Now what happened in that Adams case?

Mr. MERITT. Those contracts are still outstanding. They are illegal, and Mr. Adams and other attorneys who have these illegal contracts want legislation passed which will take the matter out from under the jurisdiction of the department and leave it so that the Indian Bureau will have no control over these contracts. I have been rather insistent in bringing these matters to the attention of the committee, because I know from past experience that if legislation of this character is enacted it will result in great scandals, as has occurred in the past; and as the Indian Bureau does not want to be a party to those scandals, we want to bring this matter fully to the attention of Congress. That is the reason why I have called the attention of the committee to the report of a former investigating committee consisting of members of this Indian Committee, headed by Hon. Charles H. Burke, who is well informed on Indian matters.

The CHAIRMAN. What is the date of that statement you have just read?

Mr. MERITT. This statement?

The CHAIRMAN. The report you have just read.

Mr. MERITT. The statement is a comparatively recent expression of Members of Congress on the question of attorney contracts.

The CHAIRMAN. It must have been about 10 years ago.

Mr. BALLINGER. 1910 was when the investigation was made.

Mr. MERITT. It is dated February 20, 1911.

The CHAIRMAN. Evidently that report had a very salutary effect upon these claims getting to an adjudication, because in the five years that I have been here, while the propaganda as outlined in

that report has been about as it must have been then, yet it has been without much success, so far as I have been able to find.

Mr. RHODES. Let me ask this question: Have any bills been passed through Congress since that report was made giving the Court of Claims jurisdiction in any of those cases and fixing attorneys' fees?

Mr. MERITT. Not that I recall. We have reported adversely on every one of the bills and have fought those bills as hard as we possibly could.

Mr. RHODES. Is that your understanding, too, Mr. Chairman?

The CHAIRMAN. That is my understanding.

Mr. MERITT. But, Mr. Chairman, these attorneys have become exceedingly active recently, and my reference to propaganda in my recent statement to this committee had a significant meaning, because——

Mr. RHODES (interposing). Now, just a moment—that means that you are against any legislation which seeks to confer jurisdiction on the Court of Claims to hear any of these Indian matters and fixing the fees?

Mr. MERITT. We are against any legislation which permits attorneys to have tribal contracts that do not conform with the existing law contained in sections 2103, 2104, 2105, and 2106 of the Revised Statutes.

Mr. RHODES. In other words, is it your opinion that there is all the law on the statute books to-day pertaining to the making of such contracts and their approval that is necessary?

Mr. MERITT. Yes, sir; but they are attempting to get these jurisdictional bills through so worded that the law now on the statute books will not apply.

Mr. RHODES. What I mean is, then it is your contention that there is no necessity for this legislation in that regard?

Mr. MERITT. No, sir; there is necessity for legislation submitting these claims to the Court of Claims for adjudication, but that legislation should be worded so that the attorney contracts must conform to existing law.

Mr. RHODES. That is what I was getting at. You have no objection in certain cases to the Court of Claims acquiring jurisdiction?

Mr. MERITT. Not at all.

Mr. RHODES. But you don't want the law changed as to the making and approval of attorney contracts?

Mr. MERITT. No, sir.

The CHAIRMAN. And that, of course, includes the selection of the attorney. Of course, that is part of the proposition. We might just as well have that in the record. There are two prime, fundamental reasons why they insist upon this language. The first is that the Indians shall have an attorney who is at least satisfactory to them and partially so to the bureau, and that the fee must not be left without a limit. We have several bills here now where Indians are desirous of going to the Court of Claims to which the bureau has not objected; in fact, some of them have said they should go there; but this committee has been slow to report out those bills on account of the fact that we know how difficult it is to get any measure of that sort through the House, and it is going to be very difficult now, and one of the reasons why there are so many of these pressed now is that it has been about three years since we have considered any

of them. They were tabooed entirely by the committee. Now it is not surprising to me that there is an effort now to press these matters, on account of the intermission there of about three years that there was no consideration given to them at all.

Mr. MERITT. We have no objection at all to any Indian tribe in the United States having a prima facie claim, having a jurisdictional bill properly worded which will permit them to go to the Court of Claims. In fact, Mr. Chairman, I want it plainly understood that my position is that every Indian tribe in the United States that thinks it has a claim against the Government should have that opportunity, the same as any other person who thinks he has a claim against the Government; and when I was law clerk of the Indian Bureau several years ago I drafted a general jurisdictional bill which would permit all Indian tribes to go to the Court of Claims, but that general jurisdictional bill was so guarded that none of these scandals would have resulted.

The CHAIRMAN. Now, Mr. Meritt, can you give me any idea of how many of these claim bills there are before the Court of Claims now that refer to Indians?

Mr. MERITT. There are very few pending before the Court of Claims at this time, Mr. Chairman, but there are a great many bills pending before the committees of Congress, and some of them are not properly guarded, and we have pointed out when we have had those bills referred to us for report, these provisions that would be unfortunate if they passed in their present form.

Mr. RHODES. There are no such bills on the calendar, either in the House or Senate now, are there?

Mr. MERITT. I think there are some bills on the calendar.

The CHAIRMAN. There are some on the calendar. We just reported out one the other day, this Cowlitz bill. That was a claim bill. And the Crow bill is a claim bill.

Mr. RHODES. I mean containing those objectionable features.

Mr. BALLINGER. And the Five Tribes.

The CHAIRMAN. Now, there is one bill before the Court of Claims where the limit of attorneys' fees is not fixed, isn't there?

Mr. MERITT. I do not recall it.

Mr. W. M. WOOSTER. The Indians living west of the summit of the Cascades on the Pacific coast are so widely scattered and so far apart that it would be impossible for them to come and negotiate contracts as in the case of others.

Mr. MERRITT. That bill has not passed Congress.

The CHAIRMAN. Well, is it on the calendar?

Mr. SINCLAIR. It is on the calendar; yes, sir.

The CHAIRMAN. Did this committee report it out?

Mr. SINCLAIR. I think so.

The CHAIRMAN. Now, just let me see if I understand this bill here. My understanding of this measure that we are discussing here now, H. R. 12972, is that it is drawn peculiarly to cover the interests of the Chippewas of Minnesota?

Mr. MERITT. Yes, sir.

The CHAIRMAN. And while it is the desire of the bureau that it shall contain no language that is any way different from the regular legal form of making contracts with attorneys, that there are other matters in here that must be enacted in order to cover certain conditions that

prevail in the Chippewa Nation, that do not apply to the laws that are now on the books. In other words, this legislation here must be enacted in order to take care of the peculiar situations that are up there, which are not covered by any law that is in existence to-day? Is that the complete understanding of it?

Mr. MERITT. No, sir.

The CHAIRMAN. Then if you will try to tell me why, with all the laws there are on the books for the purpose of Indians getting an opportunity to go to the Court of Claims, it is necessary to enact this particular legislation here now—can you tell me that?

Mr. MERITT. We have no objection to the jurisdictional bill passing Congress as recommended by the Indian Bureau, but Mr. Ballinger is attempting to get an amendment on this bill that will take the approval of the contract out from under the jurisdiction of the Indian Bureau, and therefore not have the existing law applicable to those contracts; you will observe on page 4, lines 8 and 9, we drafted the law so as to read:

Attorneys employed therein by said tribe or bands of Indians under contract or contracts made and approved as provided by existing law.

The CHAIRMAN. Now, let me ask you right there, if the contract was made as provided by existing law, would there be any need for all this other legislation that is written in this H. R. 12972?

Mr. MERITT. Yes, sir; there would still be need for it, because the Court of Claims would not have jurisdiction without legislation.

The CHAIRMAN. Now, that is what I tried to get before you in the statement I made a few moments ago.

Mr. RHODES. But Mr. Meritt does not mean that it is necessary to have the law amended as suggested by Mr. Ballinger. You want the law just as it appeared in this draft here, because it recognizes existing law in applying to attorneys' contracts and their approval?

Mr. MERITT. Exactly.

The CHAIRMAN. Then if this bill—if we should report this measure here as drawn with that section with regard to attorneys' contracts, as the bureau desires it here, what else is there in the bill that is objectionable?

Mr. MERITT. There are a number of amendments that Mr. Ballinger has submitted that are objectionable. We have no objection to the bill as submitted by the Indian Bureau.

Mr. RHODES. You mean the bill H. R. 12972 is the way you want it, isn't it?

Mr. MERITT. Yes, sir.

Mr. RHODES. What Mr. Meritt is objecting to is the Ballinger amendments.

The CHAIRMAN. It is also necessary to have it in this form in order to close up the affairs of the Chippewas along the line of the administration bill which we have already discussed.

Mr. MERITT. H. R. 12972 is a jurisdictional bill, and will give the Court of Claims authority to determine the claims of the Chippewa Indians against the Government, and will also determine the claims of certain bands of the Chippewa Indians—for example, the Red Lakes and the Indians outside of the Red Lake Reservation.

Mr. RHODES. Are you in favor of it?

Mr. MERITT. We are in favor of it.

The CHAIRMAN. Now, Mr. Ballinger desires to amend it?

Mr. MERITT. We are opposed to the Ballinger amendments.

The CHAIRMAN. Now let us see if we can not, with that discussion, go ahead and see what Mr. Ballinger's amendments are. What do you want put right in there in place of that, Mr. Ballinger?

Mr. BALLINGER. This is page 4, lines 8 and 9, and I ask to have stricken out the words "under contract or contracts made and approved as provided by existing law," and I ask to have inserted in lieu of those words stricken out the words "by their general council," so that it will read: "to be paid the attorney or attorneys employed therein by said tribe or bands of Indians by their general council."

The CHAIRMAN. Now, Mr. Meritt objects to that on the same grounds that he has objected to that general-council proposition all the way through.

Mr. BALLINGER. Mr. Chairman, I just want to suggest this to you, that in the amendment I have asked be inserted there is an absolute limitation and check on the amount of the fee, for under the bill as agreed to by the department the court can not fix a fee in excess of 10 per cent, and then you have the further check on the judgment when it comes back for an appropriation to pay it. If you gentlemen think the fee allowed is excessive, you have a check on it when you come to make the appropriation to pay the judgment.

The CHAIRMAN. Now, we understand that, and we understand that the same objection exists and the same point remains that it is simply a question here of whether the council shall have the last word or the bureau on the question of who the attorney shall be.

Mr. BALLINGER. Merely a suggestion.

Mr. RHODES. Just a moment there—do I understand that the chief difference, or substantial difference, between the bureau and Mr. Ballinger is this: That the question who shall have the selection of the attorney?

Mr. BALLINGER. That is it.

Mr. MERITT. Now, that is not the question. Mr. Ballinger would like to have it appear that that is the question, but that is not the principle involved. The principle involved is far deeper than that proposition. We will have no objection to the Chippewa Indians selecting their own attorney, but we want the contract that they make in such form that it complies with existing law, and that it shall contain provisions that are reasonable and fair to all concerned. It is a well-known fact that shrewd attorneys can go out on Indian reservations and get contracts that will result—

The CHAIRMAN (interposing). We have been all through that several times, and the committee understands that phase of it.

Mr. RHODES. That would rather go to the reason why the department from your standpoint ought to have the jurisdiction.

Mr. MERITT. We want the law so guarded that the complaints and scandals set out in this investigation will be impossible.

Mr. BALLINGER. Now, Mr. Chairman, the next amendment that the general council proposes, on page 4, line 19, renumber "section 5" as "section 14," so it will be section 14 if the bills are put together. I take it there is no objection to that.

The CHAIRMAN. No.

Mr. BALLINGER. Now, in line 22, page 4, strike out the word "or" and insert the word "and."

The CHAIRMAN. There is no objection to that.

Mr. BALLINGER. Then in line 23, after the word "Chippewa" insert "which shall include all the Chippewa Indians residing on and belonging to said reservation."

All of the Indians residing on the Red Lake Reservation have participated in the distribution of the funds, thus far made, and therefore the jurisdictional act ought not to limit it to the Red Lake Band, but ought to include all of those Indians as party defendants.

Mr. MERITT. We have no objection to that amendment.

The CHAIRMAN. There is no objection to that. What is the next?

Mr. BALLINGER. Page 5, line 5, after the word "bands," insert the following:

The court shall also determine the ownership of any funds that may hereafter be derived from the sale and disposition of any of the property on the Red Lake Reservation, and all funds now in hand and that may hereafter accrue from the disposition of any such property on the Red Lake Reservation shall be held subject to the final determination of the case, and shall then be disbursed in strict conformity with the decree of said court.

The provision as it stands, commencing with line 19, on page 4, and running to line 5, page 5, deals only with the funds that have been received and disbursed, and this amendment will enable the court to determine the entire ownership of all the property on the reservation. I take it there is no objection to that.

Mr. MERITT. Mr. Henderson probably wants to make a statement there.

Mr. HENDERSON. Mr. Chairman, there is every objection to it from the standpoint of the Red Lake Indians, and when it comes to the time to present this subject generally we shall try to make that clear.

The CHAIRMAN. Now, you have said that several times—when it comes to the time when you will present this matter generally. When do you expect that time to come and where?

Mr. HENDERSON. I assume from the announcement made by the chairman at the beginning, that we would go through this bill taking it up at the respective points where amendments were being suggested by Mr. Ballinger, the general council, and that after that was done, the Red Lake Indians would have an opportunity to offer as a substitute for this whole scheme of legislation their request in regard to the matter, which will be radically different from what is presented in the present bill.

The CHAIRMAN. Will that be in the form of a brief or an oral statement?

Mr. HENDERSON. That will be in the form of a draft of a proposed bill.

The CHAIRMAN. Will you have that ready to present at the close of this hearing?

Mr. HENDERSON. No; hardly at the close of this hearing, Mr. Chairman, but within 24 hours after the hearing is closed, I should say.

The CHAIRMAN. All right. I just wanted to know what you meant by that. Now you can go ahead. Is that all you have to say to-day on this amendment?

Mr. HENDERSON. That is all I care to say now.

The CHAIRMAN. Then there is no objection on the part of the bureau?

Mr. MERITT. Yes, sir; we object to that amendment, but we thought inasmuch as it affected the Red Lake Indians, Mr. Henderson should have the opportunity to state their objections.

The CHAIRMAN. Will his objection be your objection?

Mr. HENDERSON. May I say one word there that will probably be a key to the situation? The Red Lake Indians are unalterably opposed to the general council, as it is known here now before this committee, having control of the legislation or any legislation that may be granted to the Red Lake Indians, or the Chippewas, at this session of Congress.

The CHAIRMAN. Don't you mean that they are opposed to having the present council administer any legislation that may be enacted?

Mr. HENDERSON. They are opposed to going into court under conditions where they would not have an equal standing with any other bands or any bands of Chippewas in the State. They will ask this committee to give a jurisdictional bill—to allow a jurisdictional bill to be reported out favorably that will put them in a position where they can be the fighters, or the claimants in any claim that they may have, and they have claims not only against the United States but against the other bands of Chippewa Indians in the State. They do not want to have to appear in the Court of Claims as a defendant or defendants, necessarily, but they want to go there themselves if they see fit to do so, as claimants in the case.

Mr. MERITT. And the Indian Bureau wants to place the Red Lake Indians in the same position as any other band of Chippewa Indians, and we are favorable to the proposition suggested by Mr. Henderson.

Mr. BALLINGER. Mr. Chairman, if this matter is going to go to the Court of Claims, the court by its decree ought to clean up the entire question. It ought not to go there by piecemeal, and the provision as agreed to by the department merely put up a part of it to the court to decide, and withholds all the property that remains undisposed of, together with the proceeds or timber that has been sold under this present contract that is in the Treasury of the United States. Now that all ought to go to the court, and the court ought to decide the ownership of all of it; if not, it is useless to send a part of it to the court to decide.

Mr. HENDERSON. May I say in response to Mr. Ballinger's suggestion that it will be the desire of the Red Lake Indians in any bill that is passed to have entire reciprocity. They will ask that any set-offs that there may be against claims that they are offering, either on the part of the United States or the other bands of Chippewa Indians shall be tried in the same suit. That probably would be done in any event under the rules of the court, but they are very willing to have that provision expressly set forth in the act that may be passed.

Mr. BALLINGER. Mr. Chairman, the next amendment is in line 13, page 5, strike out the word "or" and insert the word "and."

Mr. MERITT. We have no objection to that amendment.

Mr. BALLINGER. In line 20, page 5, strike out the words "for the purpose of making" and insert in lieu thereof, "and shall furnish such." The Indian Office agreed to that previously.

Mr. MERITT. We have no objection ot that amendment.

Mr. BALLINGER. In line 21, after the word, "thereof," insert the words "free of cost."

Mr. MERITT. We have no objection to that, with the previous understanding that the request shall be reasonable.

The CHAIRMAN. Who is going to pass upon the question of reasonableness?

Mr. BALLINGER. The court would if there was a controversy.

The CHAIRMAN. That is a very elastic word—"reasonableness."

Mr. MERITT. Mr. Chairman, before we leave that page I want to correct the statement that Mr. Ballinger made a few moments ago, that if the court made an unreasonable award, Congress would still have control of the matter; that it would be necessary for them to come back and get an appropriation from Congress. Now I wish to invite your attention to the language contained on page 4, lines 12 to 18, inclusive, which reads as follows:

The fees and expenses decreed by the court to the attorney or attorneys of record shall be paid out of any sum or sums recovered in such suit or suits; and the proceeds of all amounts recovered, after the payment of fees, charges, and expenses, shall be deposited in the Treasury of the United States in the principal fund of the Chippewa Indians of Minnesota.

Mr. BALLINGER. There would have to be appropriation made first of the money.

Mr. MERITT. Under that language, Mr. Chairman, it would not be necessary to make an appropriation by Congress; the money would be transferred from the public funds of the Treasury of the United States to the account of the Chippewa Indians.

Mr. ELSTON. Well, but that account of the Chippewa Indians would have to be drawn upon by a legislative appropriation. It would be under control, I suppose, to that extent.

The CHAIRMAN. Well, there is a controversy here.

Mr. RHODES. Unless there is authority under existing law.

The CHAIRMAN. Just a moment—I want to see if Mr. Meritt is through with his statement.

Mr. MERITT. That is my statement.

Mr. BALLINGER. Mr. Chairman, every judgment of the Court of Claims, unless it is expressly written into the legislation otherwise, has to come to Congress for an appropriation, and they are usually carried in the sundry civil or the deficiency appropriation bills.

Mr. MERITT. That is true generally, but I think this language is so worded that it could be done without further legislation by Congress.

Mr. ELSTON. There is no difference between you, so that both sides are perfectly willing for that language to be so explicit that there is no controversy whatsoever that a subsequent appropriation will have to be made. So that can be passed.

The CHAIRMAN. I am very glad you brought that out, Mr. Meritt, because that shows there is no controversy there.

Mr. BALLINGER. Now, on page 6, Mr. Chairman, I want to read several amendments together—commencing on page 5, line 24, with the word "provided," the draft of the bill provides:

Provided, That the Red Lake Band, if it shall elect so to do at a general council of the band, may employ counsel, under existing law, to represent it, and the court may determine the fee or compensation to be paid such counsel, which shall not exceed \$5,000, in addition to the expenses incurred, in the event the Red Lake Band is unsuccessful in its defense; and in the event the Red Lake Band is successful in its defense, such fee, including costs and expenses, shall not exceed 10 per cent of the amount claimed by the complainant bands, payment to be made from any funds standing to the credit of the band at the time of the filing of the petition in such suit.

Now what does that do? First I want to call your attention to the preceding provision which authorizes the Attorney General of the United States to appear and defend for that band. This provision authorizes the band, if it sees fit, to supplement the Attorney General's representation before the courts. The provision there on page 6 provides that, win or lose, the attorney representing the Red Lake Band shall receive \$5,000 and his expenses, and that shall come out of the funds now standing to the credit of the Red Lake Band. If the court holds that those funds belong to all the Chippewas of Minnesota, then you would have this paradoxical situation of the plaintiff who has brought a suit for the recovery of his property prevailing in the court and recovering his property and the being compelled to pay the attorney for the defendant, and the Chippewa Indians of Minnesota do not think that is a fair proposition. The bill gives their attorney no compensation, either for expenses or for counsel fees, unless he prevails; if he prevails he gets compensation; if he fails he gets nothing. Now, in order to overcome that situation the general council suggests these amendments:

Page 6, line 8, after the word "made" insert the words "if the Indians residing on and belonging to the Red Lake Reservation are successful."

Line 10, strike out the period after the word "suit," and insert a comma and add the following:

and of said Red Lake Indians are unsuccessful said \$5,000 and expenses shall be paid out of the public treasury to be reimbursed out of any funds to which the individual members of said band may be entitled before any further payments out of the tribal property shall be made to any of the members of said band.

That authorizes them to employ special counsel to supplement the Attorney General, if they so desire, and if they are unsuccessful then they must pay their attorney out of their own funds, which is a fair proposition. If they are successful, the general counsel has no interest in the proceeds, and they can do with it as they see fit.

The CHAIRMAN. Does any one wish to say anything in objection to that?

Mr. HENDERSON. I do not know that I have it clear in my mind yet.

Mr. BALLINGER. I will read it, if the committee desires, in exactly the language as amended.

The CHAIRMAN. Well, it is very simple, as far as my mind is concerned. It is perfectly obvious what he means.

Mr. ELSTON. He does not want it paid out of the funds belonging to all the Chippewas rather than the other funds.

Mr. HENDERSON. I do not think the Red Lakes would make any such contention.

Mr. ELSTON. We understand the situation. There is no use going into it.

The CHAIRMAN. What is the next suggested amendment?

Mr. BALLINGER. Line 17, page 6, after the word "the" insert the following: "General council of the Chippewa Indians of Minnesota to represent the," so that the language will read, commencing in line 13:

Upon the final determination of such suit the Court of Claims shall also determine the fee and allowances for expenses as it shall find reasonable and just to be paid the attorney or attorneys employed by the general council of the Chippewa Indians of Minnesota to represent the complainant bands.

Mr. MERITT. Mr. Chairman, we offer the same objection to that amendment that we offered to the amendment on page 4, lines 8 and 9. The same principle is involved.

The CHAIRMAN. What is the next?

Mr. BALLINGER. Just one minute. Observe, Mr. Chairman, that as the language stands, probably a contract would have to be made with from 12 to 13 bands separately out there, and it would require their separate approval. The amendment that I offer puts that in the hands of one institution, so that you have a workable proposition.

Mr. MERITT. No; Mr. Chairman, that amendment would take out from under the jurisdiction of the Interior Department to approval of the contracts, because they propose to strike out "under contract or contracts made and approved as provided by existing law."

Mr. BALLINGER. Mr. Chairman, in lines 17 and 18, we ask that the words commencing with the word "under," in line 17, be stricken out; that is, these words, "under contract or contracts made and approved as provided by existing law." I have already gone into that matter fully.

The CHAIRMAN. There is no discussion really about that.

Mr. MERITT. We are opposed to both amendments.

The CHAIRMAN. What is the next?

Mr. BALLINGER. On page 7, line 5, after the parenthesis following the figures "642" insert the following: "or to which the Indian title had not been lawfully extinguished by cession." Let me read that so that the committee will fully understand it. Before I get to that, this section 6 ought to be changed to section 15.

The CHAIRMAN. Is there any objection to that?

Mr. BALLINGER. Commencing on line 24, page 6, the language will read, "That the Attorney General of the United States is hereby authorized and directed to institute a suit in the Supreme Court of the United States against the State of Minnesota for the value of all land and timber thereon, ceded to the United States in trust, under the provision of the act of January 14, 1889, or to which the Indian title had not been lawfully extinguished by cession." Is there any objection to that, Mr. Meritt?

Mr. MERITT. Yes, sir; we object to that amendment on the ground that it would bring in all of the controverted questions regarding those various agreements and treaties. We want these claims based upon acts of Congress, and you remember that the acts of January 14, 1889, is the basic act, and inasmuch as this language would bring in a lot of controverted questions——

The CHAIRMAN. It goes back of that date?

Mr. MERITT. It goes back of that date, and we object to it.

Mr. BALLINGER. Now, Mr. Chairman, in order to get this plain, the object of the general council is to clean up all their controversies with the Government. Under the treaty of 1855 a cession of land was made to the United States. The United States admittedly surveyed to a wrong point instead of following the boundary line stated in the

treaty, which resulted in the United States acquiring somewhere between 200,000 and 600,000 acres of land more than was ceded to it. The General Land Office has so advised the Secretary of the Interior, and that matter is contained in a confidential report, as I understand, and I am speaking from secondhand information here. The records in that case, as transmitted to the Secretary, are being treated as confidential, because they would disclose, if made public, a claim against the United States. Now, it is for the purpose of reaching that very claim and bringing that in here so that it may all be cleaned up in one suit that this amendment is asked, and if you are going to send the claims of these Indians to the Court of Claims, I ask that you clean up everything.

The CHAIRMAN. Well, you have the right to ask. Have you anything further to say on that, Mr. Meritt?

Mr. MERITT. No, sir.

The CHAIRMAN. What is the next amendment?

Mr. BALLINGER. Line 5, page 7, strike out the word "subsequently"; that is to say, subsequent to 1889.

Mr. HERNANDEZ. Were there any patents subsequent?

Mr. BALLINGER. Yes. The language reads, "Which were subsequently patented to the State of Minnesota," and my suggested amendment is to strike out the word "subsequently."

The CHAIRMAN. Is there any objection to that, Mr. Meritt?

Mr. MERITT. We prefer that the word "subsequently" be retained in the bill.

The CHAIRMAN. Just give us one reason for it.

Mr. MERITT. For the reason that it would bring up a lot of controverted questions that are so old and are so hazy that it would be almost impossible for any court to determine them.

The CHAIRMAN. And that word is used so that it will be understood that you are not to go back of 1889?

Mr. MERITT. The act of January 14, 1889, is the basis of these claims.

The CHAIRMAN. The "subsequently" mentioned in there means that it is the intention of this act that no litigation or claim shall date back of 1889; is that the idea?

Mr. MERITT. That is one of the ideas involved, Mr. Chairman.

The CHAIRMAN. Well, what is the other one?

Mr. MERITT. The language would make it uncertain as to what would go to the Court of Claims for adjudication?

The CHAIRMAN. What language?

Mr. MERITT. Embodying the word "subsequently" in connection with the other language that Mr. Ballinger has suggested go in the bill.

The CHAIRMAN. Perhaps my illustration of the thing was crude, but does it not all mean the same thing?

Mr. MERITT. The same principle is involved.

Mr. BALLINGER. Mr. Chairman, the position of the department, it seems to me, is very paradoxical. Turn to section 1 of the bill and see what jurisdiction is given to the court:

That all claims of whatsoever nature which the Chippewa Indians may have against the United States, which have not heretofore been determined by a court of competent jurisdiction, may be submitted to the Court of Claims for determination of the amount, if any, due said tribe from the United States under any treaty or agreement or for the misappropriation of any of the funds of said tribe.

Now, then, after giving them jurisdiction to hear and determine any claim arising out of any treaty, it is now proposed to limit them to claims that have arisen subsequent to 1889. Either one or the other portion of the bill ought to be changed so that it will be clear and specific and so that we will know exactly what we are doing.

Mr. MERITT. We have no objection to the Indians taking their claims to the Court of Claims, but we do not want language incorporated in a jurisdictional bill that will give a basis for claims that do not in fact exist and will cloud the issue. That is the reason why we think the language "or to which the Indian title had not been lawfully extinguished by cessions" should be omitted, because we make reference to the act of January 14, 1889, which was a confirmation of the agreement, and if we allow any other language to go in they will bring up the agreements rather than the legislation itself.

Mr. BALLINGER. Now, Mr. Chairman, the next amendment proposed by the general council is on page 7, lines 18, 19, 20, 21, 22, and 23, to strike out the words "under rules and regulations to be prescribed by the Secretary of the Interior; and the proceeds derived from the sale of such lands shall similarly be deposited in the Treasury of the United States in the principal fund of said Chippewa Indians" and insert in lieu thereof the following: "as provided in section 2 of this act."

Now, section 2 of the administrative bill makes provision for the disposition of any lands that are recovered back from the State. Now, why this further provision, which is different from the provision contained in section 2 of the administrative bill and therefore in direct conflict.

Mr. MERITT. Mr. Chairman, our objection to that is that the language we have in the bill is perfectly clear and can not be questioned, whereas if he refers back to section 2 you will note that section 2 is a very long section and deals with several subjects, and the two make it rather confusing.

Mr. BALLINGER. It is the first paragraph of section 2.

Mr. MERITT. We wanted it to be made perfectly clear.

Mr. ELSTON. Is there any question between you as to whether or not the bureau is perfectly clear, or whether the methods provided in section 2 and in the details given here by the bureau are different? What do you say as to that, Mr. Ballinger? You say it is just surplussage to repeat?

Mr. BALLINGER. This provision here changes the provision made in section 2 of the bill for the disposition of the same lands.

Mr. ELSTON. Mr. Meritt did not touch that. He justified this extensive detail there at the point mentioned because he refers to the fact that section 2 will be a little confusing.

The CHAIRMAN. That deals with many measures.

Mr. ELSTON. Many measures, and he does not go to the point you make, that this detail is different entirely from the segregated detail that might be found in section 2 referring to this matter.

Mr. MERITT. In order that I may make myself perfectly clear on this, I will state that Mr. Ballinger proposes to strike out the following: "under rules and regulations to be prescribed by the Secretary of the Interior; and the proceeds derived from the sale of such lands shall similarly be deposited in the Treasury of the United States in the principal fund of said Chippewa Indians." My contention is that

the language is perfectly clear, and it shows plainly what we propose to do with the money.

Mr. ELSTON. With the proceeds?

Mr. MERITT. With the proceeds.

Mr. ELSTON. In what particular way does the language he suggests differ from that?

Mr. MERITT. Mr. Ballinger suggests that the language be stricken out and the following language be inserted, "as provided in section 2 of this act." Now, in order to get my point, it will be necessary for me to read section 2.

Mr. BALLINGER. Page 12, line 15.

Mr. MERITT. Section 2, page 11, line 13: "That as compensation for losses sustained by the Chippewa Indians——

Mr. ELSTON. What is the use of reading the whole section? If Mr. Ballinger can state just what particular provisions in section 2 covering the same matter here are different, as he says, then we can discuss it.

Mr. MERITT. It relates to the whole section, which contains the several different propositions.

Mr. BALLINGER. Page 12, line 15, provides as follows:

"The Secretary of the Interior is further directed to have all lands heretofore ceded to the United States under said act of January 14, 1889,"—and then there is a difference there as to the words, "and undisposed of," and then it proceeds, as the department has it, "And not included in any reserve and not disposed of," and now, including this language here in both drafts, "including all lands that may be recovered from the State of Minnesota, or from other sources, appraised at their true value, which shall include the timber thereon, by competent appraisers, at least one-third of whom shall be appointed by the executive committee of the general council of the Chippewa Indians of Minnesota," and then the section goes on down and provides how that land shall be sold.

Mr. ELSTON. But one is referring to money, and the other to lands.

Mr. BALLINGER. No; this refers to timber now on the very lands that are to be recovered back.

The CHAIRMAN. This over here simply provides what shall be done with the money.

Mr. ELSTON. I do not see that there is any conflict at all. It looks to me like the bureau's contention is right. I do not see any contradiction. One has to do with money and the other as to the disposition of money of somebody else, the title to which might come to the Chippewas by reason of this litigation.

The CHAIRMAN. That is only money that is recovered from all the things that are set forth in section 2.

Mr. BALLINGER. Mr. Chairman, I think I am right about it. On page 7 of your jurisdictional bill, commencing with line 13, it reads: "Any moneys recovered from said State shall be deposited in the principal fund of the Chippewa Indians of Minnesota, standing to their credit in the Treasury of the United States; and any land recovered or the title to which has been decreed adversely to the claim of the State shall be disposed of as provided in section 2 of this act." Now, section 2 of this act provides for the disposition of any land that is recovered from the State.

Mr. ELSTON. That does not interfere with the proceeds.

The CHAIRMAN. That is in the bill itself?

Mr. BALLINGER. Yes.

The CHAIRMAN. I am looking at the jurisdictional bill.

Mr. BALLINGER. That is in the jurisdictional bill that I just read.

The CHAIRMAN. (Reading:)

Standing to their credit in the Treasury of the United States; and any land recovered or the title to which has been decreed adversely to the claim of the State shall be disposed of under rules and regulations to be prescribed by the Secretary of the Interior.

Mr. BALLINGER. Yes, that is the disposition of the land.

The CHAIRMAN. That is not the way you read it. It continues, "and the proceeds derived from the sale of such lands shall similarly be deposited in the Treasury of the United States in the principal fund of said Chippewa Indians."

Mr. MERITT. My point is that Mr. Ballinger's proposed amendment will lead to confusion, because it refers to the entire section 2, and there are different subjects contained in that section; whereas our position is that this money shall be deposited to the credit of these Indians in the Treasury of the United States.

Mr. ELSTON. Is there anything in the provision you are speaking of now on page 7 which refers to land recovered in litigation?

The CHAIRMAN (reading). "And any land recovered or the title to which has been decreed adversely to the claim of the State shall be disposed of under rules and regulations to be prescribed by the Secretary of the Interior."

Mr. ELSTON. All right, Mr. Ballinger; that section is all right, because there is a provision in section 2 that lands recovered shall be added to the general bulk of lands distributed under the general allotment system, and here you provide an absolutely inconsistent provision for the distribution of this very same land.

Mr. BALLINGER. That is my contention.

Mr. ELSTON. If it is true as the Chairman just read.

Mr. MERITT. We are required to dispose of this land, and we are required to deposit the money, and we will do it.

Mr. ELSTON. You are required to allot them and do other things in addition to crediting the money, I assume from the language you read. Now, let us get this thing down to the issue. Are you perfectly willing, if it be found that the suggestions you have made on page 7 as to the disposition of not only the moneys, but also the lands recovered, are different from or contradictory to any provision in section 2 referring to the same matter, that we go ahead and harmonize them with section 2?

Mr. MERITT. We are willing to harmonize them with section 2, but we are not willing to have the whole of section 2 tied up with section 15.

Mr. ELSTON. But in the whole thing we have got to segregate the matter here and make them consistent with each other. It looks to me like that will end it.

The CHAIRMAN. Who will prepare the language to correct that?

Mr. BALLINGER. May I not read a few lines here from section 2, so as to make that absolutely clear? Commencing on line 15, page 12, it reads:

The Secretary of the Interior is further directed to have all lands heretofore ceded to the United States under said act of January 14, 1889, including all lands that may be recovered from the State of Minnesota, or from other sources, appraised at their

true value, which shall include the timber thereon, by competent appraisers, at least one-third of whom shall be appointed by the Executive Committee of the General Council of the Chippewa Indians of Minnesota, and upon the completion of the allotments herein authorized all of said land remaining undivided and undisposed of, or to which no valid right has been initiated, shall be put up and sold at public auction to the highest bidder at not less than the appraised value in tracts not exceeding 640 acres, said tracts to conform to legal subdivisions—

and then it goes on and provides for the exact method of disposition. Now, this provision here changes it.

Mr. ELSTON. It is perfectly evident that if the provision you have just read and the provision we are discussing on page 7 refer to the same subject matter, it would be absolutely foolish to have contradictory provisions in the same act referring to the same subject, but now they are harmonious, absolutely so; they are exactly identical.

The CHAIRMAN. If you cut this language out, "and any land recovered or the title to which has been decreed adversely to the claim of the State shall be disposed of under rules and regulations to be prescribed by the Secretary of the Interior," would not that correct the whole thing?

Mr. BALLINGER. If you commence with the word, "under," in line 18, and strike out the word "under" in line 18, and strike out lines 19, 20, 21, 22, and in line 23 the letters "dians," being the last part of the word "Indians," and then substitute the language, "as provided in section 2 of this act," you will harmonize both sections as completely as I can harmonize them.

The CHAIRMAN. What is the next suggested amendment?

Mr. BALLINGER. On line 25, page 7, strike out the words, "under existing."

On page 8, strike out all of lines 1 and 2. That is the same question—

Mr. MERITT. Read the amendment, please.

Mr. BALLINGER. Well, the provision as amended—

The CHAIRMAN. Is that the end of it?

Mr. BALLINGER. No, sir.

Mr. MERITT. He proposes to strike out the words, "under existing law, subject to the sanction and approval of the Commissioner of Indian Affairs and the Secretary of the Interior."

Mr. ELSTON. With respect to what?

Mr. MERITT. With respect to the attorney's fee.

The CHAIRMAN. What is the next?

Mr. BALLINGER. On page 8, line 14, strike out the period and insert a comma and add the following: "and shall furnish copies of any such letters, papers, documents, and public records as said attorneys may desire for use in said case free of cost."

Mr. MERITT. We have no objection to that, Mr. Chairman. It goes in after the word "attorneys" in line 14.

Mr. BALLINGER. That is right.

The CHAIRMAN. Does that end the suggestions?

Mr. BALLINGER. Just one more, Mr. Chairman, and that is all. The general council asks that this be added at the end of the bill.

The CHAIRMAN. At the end of this bill?

Mr. BALLINGER. At the end of this bill; yes, sir. This provision as section 16, which is as follows:

This act shall become effective and binding upon the Chippewa Indians of Minnesota when ratified and accepted by a majority of their general council, the members of which shall be selected at an election held subsequent to the approval of this act

under the supervision of the Secretary of the Interior, but said supervision shall extend no further than to see that every male adult member of the said tribe over 18 years of age is freely permitted to participate in said elections and that his vote is properly recorded; and that the votes cast in the general council are properly recorded. Without such acceptance and ratification this act shall be inoperative.

The object and purpose of that is to guarantee an absolutely fair and impartial election under the supervision of the department itself, of a general council, and that general council, again under the eye of the Secretary of the Interior, is to consider this legislation and accept it or reject it.

Now, Mr. Chairman, that is important, for this reason. If this legislation is accepted by the Chippewa Indians of Minnesota in the way I have outlined, it is absolutely binding upon the Chippewa Indians. No claim can ever arise in the future against the United States, and this will clean up their matters for all time. Without that provision you are throwing open the gateway to possible claims arising in the future because the Indians have not accepted it, and you are changing treaties and agreements; and therefore, Mr. Chairmen, we submit that for the protection of the Government—and that is what this is designed and intended for, for the protection of the Government—that should be done.

Mr. MERITT. Mr. Chairman, this amendment is objectionable, for these reasons, among others: First, that it throws into the hands of the general council the power to say whether or not this legislation shall be accepted or rejected. The general council does not represent more than 55 per cent of the Indians of Minnesota whose property rights are involved. This legislation contains matters regarding the Red Lake Reservation and their property rights, and the general council has taken a position that is absolutely inconsistent with the position taken by the Red Lake Indians, and the Red Lake Indians, under this language, would have nothing to say in regard to this legislation, and it would throw all their property into the hands of the general council.

The CHAIRMAN. They would have the right to vote, would they not?

Mr. BALLINGER. Absolutely.

Mr. MERITT. They have all refused to participate in the proceedings of the general council or to send delegates to the general council.

The CHAIRMAN. But they have not refused to vote to ratify legislation?

Mr. MERITT. But they have refused to have anything to do with the general council. If a provision of this character is to be placed in the bill it should be so worded that you would get an expression of all of the adult male and female members of the Chippewa Indians rather than get an expression of the members of the general council. That would be proper enough, so as to get an expression from all the Chippewa Indians, rather than from a few of them.

The CHAIRMAN. How would you propose to have this legislation ratified by the Indians?

Mr. MERITT. If a provision of this kind is to be incorporated in the bill, I would have it ratified by a majority of all the adult male and female members of the Chippewa Indians, rather than to place it in the power of the general council.

Mr. ELSTON. What is your opinion as to the law question involved? Would this bill, if enacted into law, be just as binding upon the Chippewas, even if it were not ratified, as if it were ratified?

Mr. MERITT. My position is that Congress has absolute authority to enact this legislation, and it will be binding upon the Chippewa Indians, whether they ratify it or do not ratify it, as shown by the decision of the Supreme Court in what is known as the Lone Wolf case that I have quoted heretofore.

Mr. ELSTON. The only additional feature would be that in case ratification by the Indians were made, it would give it the added sanction of a contract, and of course the rules of evidence and interpretation and some of the rules of law applying to defenses against an act that is passed against the will of a person, even though the legislative agency has absolute rights, would be a little different than they would be if the subject matter of the law was a matter of contract or agreement. Now, is that your contention Mr. Ballinger?

Mr. BALLINGER. The Supreme Court of the United States has settled this question in the case of *Gritts v. Fisher*, 224 U. S. at 648, from the Cherokee Nation. In that case the court held the legislation constitutional and valid, because the council of the Cherokee Nation asked that it be enacted, and the court held that it was binding upon them.

Mr. ELSTON. Do you think objection could be made, then, as to some parts of this act on the ground that it would be a repudiation of an agreement already entered into?

Mr. BALLINGER. Yes.

Mr. ELSTON. And to the extent that it changes an agreement made and nor preexisting law on the same subject it would not be valid?

Mr. BALLINGER. Precisely. It is my opinion that you can not change an agreement by some act of Congress without laying the Government liable to a claim.

Mr. ELSTON. That is in a mixed matter a part of which has been the subject of preexisting law. As to that part there could be no objection, but to the extent that the law also covers matter that has been the subject matter of agreement as well, you do not believe subsequent legislation can affect matters that have been agreed to between the Government and the Indians without the Indians' consent?

Mr. BALLINGER. Precisely that is my position, except this, that all the legislation to which the bureau refers has been in violation of the agreement of 1889 and we do not think it was valid, because it was prejudicial to the interests of the Indians and did not have their assent.

Mr. ELSTON. Mr. Meritt, on the other hand, you contend that notwithstanding this bill covers both subject matters, matters that have been enacted by law without agreement and matters that have been the subject of agreement between the Government and the Indians, that notwithstanding the mixed character of the subject matter in the bill, involving those two kinds of subjects, nevertheless this bill would be valid and binding if enacted into law, and no objection could be made to it; is that right?

Mr. MERITT. I think so, and my authority for that statement is the Lone Wolf decision by the Supreme Court, which I have quoted in the hearings.

Mr. RHODES. What was the point in that case?

Mr. MERITT. The point in that case was that notwithstanding the agreement with the Indians, Congress had the authority and the power to enact legislation, even inconsistent with the agreement, and that the act of Congress was binding upon the Indians.

The CHAIRMAN. Now, the Chairman would like, for his information, a combined bill, one prepared by Mr. Ballinger and one by the bureau, setting forth the amendments, that is setting them into the bill, those that have been agreed upon, and those that are in controversy, that is combining the two. As I understand it now, if anything is reported, there is no serious objection to reporting the jurisdictional bill and the original bill as amended as one bill. What I would like to have before me, for a study of the committee, is just what I have stated here. Take one of these bills and put it together, and interline it, and write it up so that we can have your notions about it before us, and also this, with the matters that have been agreed upon, without comment at all.

Mr. RHODES. Do we not also want Mr. Henderson's idea in the matter?

The CHAIRMAN. Mr. Henderson is going to give us a brief, as I understand it, and these other gentlemen will have 10 days in which to file briefs, and that is something we must consider. I think Mr. Henderson said he wanted to submit a proposed draft of legislation. That would be in addition to all this.

Mr. HENDERSON. That is my desire, Mr. Chairman, but whatever further is said upon this point, I desire it distinctly understood that the Red Lake Indians oppose strenuously the last amendment offered by Mr. Ballinger, and will, when the time comes, indicate by that draft and by the brief what their specific objections are. In order to do that intelligently and intelligibly as well, the representative of the Red Lake Band will have to have before him these two drafts, the one proposed by Mr. Ballinger and the one by the bureau, in order to see how far, if at all, they can concur in the agreement.

Mr. ELSTON. You have been making notes all the while?

Mr. HENDERSON. Yes.

The CHAIRMAN. I am asking for this, for my own information and for the information of this committee. You can get any information you want from any source you please. That is not an official proposition at all. This is simply for our information.

Now, as I understand it, all parties have 10 days in which to file briefs. The report of these hearings will not be printed until such briefs are filed, and they will, of course, be embodied in the record. Now, if you want to embody in your briefs your proposed bills, all right.

Mr. HENDERSON. That is what we would like to do.

The CHAIRMAN. Is that agreeable to the committee?

Mr. BALLINGER. I want to ask you to consider a matter which we have not discussed here. There are provisions in this bill, which you will find as you run along down through it relative to rolls and distinction between Indians on the White Earth and other reservations. I think some explanation ought to be made of them in some brief statement on the section.

The CHAIRMAN. If you want to give us any more information than you have up to this time, you have the right to put it in your brief, but I think there has been discussion enough on both sides

here on the proposed amendments, so that the committee will be fully advised, at least, as to the wishes of both parties, and we can use our own judgment as to what we will do about it.

Mr. BALLINGER. Mr. Chairman, I have here an official statement from the Secretary of the Treasury, showing the accounts of the Chippewa Indians, the Red Lakes, and all of them, and I am going to ask to have that inserted in the record, because it shows the total amount of money that has come into the Treasury, and the amounts that have been expended, and details that the committee probably would desire. A copy of that has been furnished to Mr. Meritt.

The CHAIRMAN. Does that have official sanction?

Mr. BALLINGER. I have the official letter here transmitting it.

The CHAIRMAN. You had better put that in, too, if we put it in at all.

Mr. MERITT. I would want an opportunity to analyze those figures, Mr. Chairman.

Mr. BALLINGER. I furnished the original to Mr. Meritt, and he had a photographic copy made of it, which he has in his office.

Mr. MERITT. We want to analyze those figures, Mr. Chairman, and we will want to show that a large part of this money has gone for the benefit of the Chippewa Indians, and we will oppose any statement going into the record that a large per cent of this money has been expended for administrative expenses.

The CHAIRMAN. Is there any such thing as that in this statement?

Mr. MERITT. Mr. Ballinger intimated that that was the fact in his previous statement.

Mr. BALLINGER. I offer that for just what it shows on its face.

Mr. MERITT. In this connection it should be borne in mind that a large amount of this money has gone for the education of the Chippewa Indians; it has gone for furnishing the old people with food and clothing; and we have also paid out a large amount of money per capita to those Indians in the past, and for that reason the general statement that 50 per cent of this money has been used for administrative expenses is misleading, when you analyze what those administrative expenses have been.

The CHAIRMAN. Aside from that, you have no objection to the insertion of these figures?

Mr. MERITT. No, sir.

The CHAIRMAN. All right, we will insert the letter and these figures in the record.

(The matter referred to is as follows:)

TREASURY DEPARTMENT,
OFFICE OF ASSISTANT SECRETARY,
Washington, February 13, 1920.

Mr. WEBSTER BALLINGER,
Washington, D. C.

SIR: By direction of the Secretary, and in response to your request of the 29th ultimo, there is inclosed herewith a statement of Chippewas in Minnesota trust funds and appropriations for their benefit, for the fiscal years 1889 to 1920, inclusive, the balances stated being as of February 12, 1920.

Respectfully,

R. C. LEFFINGWELL,
Assistant Secretary of the Treasury.

Transactions in Chippewas in Minnesota trust funds and appropriations for their benefit, fiscal years 1889 to 1920, inclusive.

Title of appropriation or fund.	Balances, July 1, 1888.	Amounts ap- propriated.	Receipts, sales of lands, etc.	Repay- ments to appropria- tions.	Total.	Expenditures.	Carried to surplus fund.	Balances, Feb. 12, 1920.
Chippewas and Christian Indians fund, trust fund.	\$42,560.36				\$42,560.36	\$42,560.36		\$1,026.80
Interest on above.	1,154.98	\$28,103.28		\$449.69	29,707.95	28,681.15		5,836.725.61
Chippewas in Minnesota fund, trust fund.		1,610,354.24	\$12,862,411.94		13,472,766.18	7,636,040.57		124,501.72
Interest on above.		4,346,362.58			4,346,362.58	4,221,860.86		8,435.87
Proceeds of Red Lake Reservation, trust fund.			1,258,968.72	894.48	1,259,863.20	31,151,180.91		
Red Lake Chippewas 3 per cent minors' fund, trust fund.		2100,246.42			100,246.42	90,255.50		519.32
Interest on above.		12,698.05			12,698.05	12,178.73		341,836.68
Red Lake Forest 4 per cent fund, trust fund.			407,039.20		407,039.20	65,202.52		1,518.20
Interest on above.		9,518.20			9,518.20	9,000.00		2,425.11
Fulfilling treaties with Chippewas of the Mississippi.	468.99	15,000.00		4,004.00	19,472.99	17,047.88		2,159.88
Fulfilling treaties with Chippewas, Pillagers, etc.	17,932.12	158,666.62		5,348.47	181,947.21	179,787.33		1,020.44
Support of Chippewas of the Mississippi (treaty).	173.11	128,000.00			128,173.11	125,276.82	\$1,875.85	
Fulfilling treaties with Chippewas and Christian Indians, proceeds of lands.								289.17
Support of Chippewas of Red Lake and Pembina (gratuity).	8,287.40	120,000.00	19,409.08		19,409.08	103,669.29	24,986.69	
Support of Chippewas on White Earth Reservation (gratuity).	4,925.68	120,000.00		225.10	125,150.78	117,833.46	7,317.32	
Negotiating with and civilization of Chippewas in Minnesota (reim- bursable).		60,000.00		535.62	60,535.62	57,559.15	2,976.47	
Advance interest to Chippewas in Minnesota (reimbursable).		1,890,000.00			1,890,000.00	1,865,431.71		24,568.29
Relief and civilization of Chippewas in Minnesota (reimbursable).		2,350,559.00			2,354,336.39	2,342,623.27	11,733.12	
Surveying and allotting for Chippewas in Minnesota (reimbursable).		567,936.55		3,797.39	567,936.55	567,936.55		
Indian School, Clontarf, Minn.		90,000.00			90,000.00	55,869.76	34,130.24	
Indian School buildings, White Earth Reservation.		50,000.00			50,000.00	49,660.55	339.45	
Indian School buildings, Leech Lake, Minn. (reimbursable).		20,000.00			20,000.00	19,782.50	217.50	
Indian School buildings, Red Lake, Minn. (reimbursable).		35,000.00			35,000.00	35,000.00		
Buildings, Leech Lake Agency.		20,000.00			20,000.00	19,491.05	508.95	
Drainage survey, Chippewas in Minnesota (reimbursable).		35,000.00			35,000.00	33,773.25	1,226.75	
Cemetery, Mille Lac Chippewas.		500.00			500.00		500.00	
Support of Indian school in Minnesota for Chippewas.		105,000.00			105,000.00	101,832.63	3,167.37	
Indian school buildings, Chippewas in Minnesota (reimbursable).		20,000.00			20,000.00	17,974.54	2,025.46	
Drainage assessments, Indian lands in Minnesota.		120,000.00			120,000.00			130,000.00
Enrollment of Chippewa allottees, White Earth Reservation, Minn.		15,000.00			15,000.00	15,113.97		486.03
Expenses of agreement with Chippewas and Christian Indians (reim- bursable).		600.00		600.00				
Payment to Chippewas on Mille Lac Reservation for improvements.		40,000.00		500.78	40,500.78	450.15	149.85	
Payment to Chippewas in Minnesota for damages.		150,000.00		15,161.46	165,161.46	162,285.23		353.51
Telephone line, White Earth Reservation.		1,000.00			1,000.00	1,000.00		2,876.23
Town lots, White Earth Reservation, trust fund.			9,476.84		9,476.84	1,000.00		9,610.99
Judgment, Court of Claims, Mille Lac Band of Chippewas.		713,854.24		255.00	713,854.24	4103,500.00		
Education of Chippewas in Minnesota.		12,000.00			12,000.00	1,000.00	11,000.00	
Payment of drainage assessments, Fond du Lac Reservation (reim- bursable).		13,080.00			13,080.00		13,080.00	

1 Transferred from "Judgment, Court of Claims, Mille Lac Band of Chippewas."

2 Exclusive of \$100,246.42 transferred to "Red Lake Chippewas 3 per cent minors' fund."

3 Transferred from "Proceeds of Red Lake Reservation."

4 Exclusive of \$610,354.24 transferred to "Chippewas in Minnesota fund."

Mr. BALLINGER. I call the attention of the committee to the fact that under date of January 20, 1919, again under date of April 19, 1919, again under date of January 30, 1920, and again under date of July 19, 1919, I addressed communications to the Indian Bureau, with the request that I be furnished information with reference to the expenditure of funds, particularly on the Red Lake Reservation, so that I might make a comprehensive statement to the committee, or file their statement with the committee, but I have never been able to get any statement from the Indian Bureau with reference to expenditures made from funds not shown on that statement thus far. I would like to have it.

The CHAIRMAN. Have you got what you desire in these figures here now?

Mr. BALLINGER. No, sir. Those figures show the amount that was received and went into the Treasury. Under section 7 of the act of 1889, the departments were authorized to deduct from the funds received, operating expenses, and only the net amount went into the Treasury. Only the net proceeds went in there. What I am trying to get at is the amount of expenditures before the deposit in the Treasury, and I can not get it.

Mr. ELSTON. That is a proper question to ask. We will ask Mr. Meritt for that in one of these items.

Mr. MERITT. We have no objection to furnishing that information to the committee, but the Red Lake Indians object to Mr. Ballinger assuming to handle the Red Lake affairs when he is taking a position contrary to the interests of the Red Lake Indians.

Mr. ELSTON. Mr. Meritt, of course, Mr. Ballinger is here in a little different capacity from that of a meddler. He is here representing practically, so far as outward indications and credentials go, the official representative body of the Chippewa Indians, and that body, representing all of the Indians, would certainly have a right to inquire whether a certain preferential band, as they allege, has had preferential treatment, and if so, to what extent. Now, I should think that the representatives of the whole body should have the right to inquire into the affairs of a particular little group. Now, there was a half intimation in your remark that it was presumption for all the Chippewas of Minnesota to inquire about whether these Red Lakes had not had some draw off they ought not to have had, and it looks to me as if they ought to have full opportunity to find out just exactly how the Red Lake affairs stand, and if they can find that the Red Lakes have gotten anything that belongs to all the Chippewas they ought to have it, if they can establish their claim to it. It looks to me like that is a perfectly proper inquiry.

Mr. MERITT. That conclusion would be absolutely correct, if the general council did represent all the Chippewa Indians.

Mr. ELSTON. Well, so far as the legality of it is concerned—I am not speaking of it now from the standpoint of what you call the merits or essential representation—I am speaking of the legal right by reason of the *prima facie* aspect of the thing, if you want to call it that. They have got the certificate of election, they have got the official representation, so far as the laws permit them to represent that whole body. In essence, you say they do not represent them, but they surely are in a position to legally make demand and get returns on it. Then, if their position legally in getting this data is not a sound

one, you will later take care of that. If the result would be to harass and irritate them merely, in order to get data upon which a legal claim might be established on the part of all the Chippewas to get something from the Red Lakes which the Red Lakes claim they ought to have, I should say it is a perfectly proper result.

You can not contemplate with any degree of aversion the capture by the whole of the Chippewas of something that the Red Lakes think they own and strenuously are keeping. That, of course, is a calamity to those who might be friends of the Red Lakes, but it is purely a matter of right and justice to all of the Chippewas, so I would like to see, myself, this thing opened up to give absolutely free access to everything on the part of everyone.

Mr. RHODES. Do you object to furnishing the information for the record?

Mr. MERITT. Not at all, but what we do object to, gentlemen—and I want to make it perfectly plain—what we do object to is this: Mr. Ballinger is constantly asking for detailed information regarding Chippewa affairs, and it would take the time of a large number of clerks to get that information for him. Now, we have pressing matters coming up in the Indian Bureau, and we are behind in our correspondence, and this matter can not be settled by anybody except the Court of Claims, and at the proper time we will furnish the Court of Claims with all available information. We have even gone so far in the jurisdictional bill as to say we will furnish attorneys that information free of charge, but we do not want to be harassed continually by these requests for information, which take the time of clerks that have so many other things to do.

Mr. ELSTON. What you mean is this. You do not intend to give to attorneys, whether they have a case or not, the mere right of discovery to go into all of your affairs in order that they might possibly rake up something, stale and old, which might be the basis of a claim and in that respect to the extent of giving them a job?

The CHAIRMAN. That is about the essence of it.

Mr. BALLINGER. Mr. Chairman, I have a letter from the Commissioner of the General Land Office, showing the moneys expended outside of those enumerated in the Treasury Department's statement, and I will ask that that be included in the record so that you may have the facts. I have had no difficulty in obtaining information from any other Bureau but the Indian Bureau.

(The letter referred to is as follows:)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, February 21, 1920.

Mr. WEBSTER BALLINGER,
Washington, D. C.

MY DEAR SIR: In response to your letter dated January 30, 1920, requesting to be advised as to the total amount expended by this office in the disposal of ceded Chippewa Indian lands in Minnesota under the act of January 14, 1889 (25 Stat., 642), I have to advise you that, according to House of Representatives Document No. 645, second session Sixty-second Congress, pages 11 and 12, mentioned in my letter of January 27, 1920, addressed to you, the total amount reimbursed to the United States May 16, 1911, on account of expenditures for the Chippewa Indians from appropriations by Congress for the relief, civilization, survey, allotment, negotiations, drainage, and for educational purposes properly reimbursable under said act and subsequent acts was \$3,820,439.05. Said Document No. 645 shows an itemized statement of the disbursements, some of which were made under the supervision of the Office

of Indian Affairs. You can probably obtain more definite information in regard to such expenditures from that office.

The expenses of surveying the lands, for which the Government was reimbursable, amounted to \$92,197.42, as computed in this office in 1903, and the total expenses of the various examining corps in the way of salaries to October 31, 1903, were about \$317,000.

This office does not have the figures showing definitely all the expenses incident to the surveying, examining, and selling of the lands and pine timber. These may be obtained from the Indian Office, or from the proper accounting officers.

The total disbursements made by the superintendent of logging up to January 1, 1920, under the act of January 14, 1889, and the act of June 27, 1902 (32 Stat., 400), are \$400,831.20.

Very respectfully,

CLAY TALLMAN, *Commissioner.*

Mr. HENDERSON. In order to make my position clear on the record, on behalf of the Red Lakes I desire to say that the Red Lake Indians reserve the right to show to the committee, which they will do in the brief, their views on this question as to whether the General Council represents all the Chippewas in Minnesota, exclusive of the Red Lake Band. They declare, of course, and they maintain the position throughout this hearing, that the General Council does not represent the Red Lake Band. They will want to be heard as to the extent to which the General Council represents the rest of the Chippewas in the State of Minnesota.

Mr. BALLINGER. Mr. Chairman, I was requested by the president and members of the General Council to thank this committee for the courteous manner in which they have been received, and the careful attention you have given to their matters, and I am merely obeying instructions. Personally I desire to extend my appreciation.

The CHAIRMAN. The appreciation is gratefully received on the part of the committee.

Mr. BALLINGER. Mr. Chairman, this is the first time in almost 31 years that an inquiry has been made into their affairs and they appreciate it.

The CHAIRMAN. If there is nothing further, we will consider the hearing on the Chippewa matters closed, and we thank all parties concerned for the courtesy they have extended the committee.

Mr. HENDERSON. On behalf of the Red Lakes I desire to say that they very much appreciate the courtesy of the committee, Mr. Chairman.

(Whereupon the hearing was closed.)



